

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

6 IN RE: NATIONAL : HON. DAN A.
PRESCRIPTION OPIATE : POLSTER
LITIGATION :
7 :
8 APPLIES TO ALL CASES : NO.
: 1:17-MD-2804
:

- HIGHLY CONFIDENTIAL -

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

October 24, 2018

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<p>1 - - -</p> <p>2 PREVIOUSLY MARKED</p> <p>3 EXHIBITS</p> <p>4 - - -</p> <p>5</p> <p>6 NO. DESCRIPTION</p> <p>7 Zimmerman-5 Settlement and</p> <p>Release Agreement</p> <p>8 6/22/07</p> <p>ABDCMDL00279854-86</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>Page 10</p> <p>1 - - -</p> <p>2 THE VIDEOGRAPHER: We are</p> <p>3 now on the record. My name is Dan</p> <p>4 Lawlor. I'm the videographer with</p> <p>5 Golkow Litigation Services.</p> <p>6 Today's date is October 24, 2018,</p> <p>7 and the time is 9:37 a.m.</p> <p>8 This video deposition is</p> <p>9 being held in Philadelphia,</p> <p>10 Pennsylvania, in the matter of</p> <p>11 National Prescription Opiate</p> <p>12 Litigation, MDL No. 2804.</p> <p>13 The deponent is Steve Mays.</p> <p>14 Counsel will be noted on the</p> <p>15 stenographic record.</p> <p>16 The court reporter is</p> <p>17 Michelle Gray who will now swear</p> <p>18 in the witness.</p> <p>19 - - -</p> <p>20 ... STEPHEN MAYS, having</p> <p>21 been first duly sworn, was</p> <p>22 examined and testified as follows:</p> <p>23 - - -</p> <p>24 EXAMINATION</p>
<p>Page 11</p> <p>1 - - -</p> <p>2 DEPOSITION SUPPORT INDEX</p> <p>3 - - -</p> <p>4</p> <p>5 Direction to Witness Not to Answer</p> <p>6 PAGE LINE</p> <p>None.</p> <p>7</p> <p>8 Request for Production of Documents</p> <p>9 PAGE LINE</p> <p>None.</p> <p>10</p> <p>11 Stipulations</p> <p>12 PAGE LINE</p> <p>None.</p> <p>13</p> <p>14 Questions Marked</p> <p>15 PAGE LINE</p> <p>None.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>Page 13</p> <p>1 - - -</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Good morning, Mr. Mays.</p> <p>4 A. Good morning.</p> <p>5 Q. How are you?</p> <p>6 A. Good.</p> <p>7 Q. Can you please -- let's</p> <p>8 start by having you state and spell your</p> <p>9 name for the record?</p> <p>10 A. Stephen Mays, S-T-E-P-H-E-N,</p> <p>11 M-A-Y-S.</p> <p>12 Q. And we'll just start by</p> <p>13 going over basics about depositions. I'm</p> <p>14 sure that in preparing for the</p> <p>15 deposition, your counsel went over this</p> <p>16 with you. But we'll hit some of the high</p> <p>17 points just to make sure that everyone in</p> <p>18 the room are on the same page. Okay?</p> <p>19 A. Okay.</p> <p>20 Q. So first of all, you've just</p> <p>21 been put under oath. That means that if</p> <p>22 you lie or are intentionally dishonest or</p> <p>23 deceitful, you can be subject to</p> <p>24 penalties or perjury charges from the</p>

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<p>1 court.</p> <p>2 Do you understand that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Is there any reason why</p> <p>5 you're unable to give truthful and</p> <p>6 accurate testimony today?</p> <p>7 A. No.</p> <p>8 Q. Are you undergoing any</p> <p>9 treatment or taking any medication that</p> <p>10 would impair your memory?</p> <p>11 A. No.</p> <p>12 Q. Is there any reason that you</p> <p>13 can state that you think that the</p> <p>14 deposition should not go forward today?</p> <p>15 A. No.</p> <p>16 Q. I'm going to be asking you</p> <p>17 questions. And unless your counsel</p> <p>18 instructs you not to answer, I'm entitled</p> <p>19 to an answer.</p> <p>20 Do you understand that?</p> <p>21 A. I understand.</p> <p>22 Q. I want to make sure that you</p> <p>23 understand my questions, so if you don't</p> <p>24 understand something that I ask you,</p>	<p>1 A. No, I do not.</p> <p>2 Q. Okay. I'm glad I asked. We</p> <p>3 shouldn't make assumptions here. Did you</p> <p>4 go to high school?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Where did you attend</p> <p>7 high school?</p> <p>8 A. Hixson High School.</p> <p>9 H-I-X-S-O-N. Hixson High School,</p> <p>10 Tennessee.</p> <p>11 Q. Okay. So high school, did</p> <p>12 you finish high school?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And that's the</p> <p>15 highest level of education that you</p> <p>16 completed?</p> <p>17 A. Some college. I just didn't</p> <p>18 get a degree.</p> <p>19 Q. Where did you take college</p> <p>20 courses?</p> <p>21 A. Middle Tennessee State</p> <p>22 University in Murfreesboro, Tennessee,</p> <p>23 and also University of Tennessee in</p> <p>24 Chattanooga.</p>
<p>1 please let me know, and I will attempt to</p> <p>2 rephrase the question in a way that makes</p> <p>3 it so that you do understand it.</p> <p>4 Understood?</p> <p>5 A. Yes.</p> <p>6 Q. From time to time I might be</p> <p>7 asking you about historical events. I</p> <p>8 don't want you to guess. But I do -- I</p> <p>9 am entitled under the law to your best</p> <p>10 recollection.</p> <p>11 So if you have no idea about</p> <p>12 something, of course you can say you</p> <p>13 don't know. But if you have a general</p> <p>14 recollection, maybe just don't recall the</p> <p>15 specifics, I'm still entitled to an</p> <p>16 answer. Understood?</p> <p>17 A. I understand.</p> <p>18 Q. All right. Well, let's</p> <p>19 start by talking about -- a little bit</p> <p>20 about who you are and your background</p> <p>21 with the company.</p> <p>22 Let's talk about your</p> <p>23 educational experience. I assume you</p> <p>24 have a college degree?</p>	<p>1 Q. Were you enrolled as a</p> <p>2 full-time student at any point?</p> <p>3 A. At MTSU, I was.</p> <p>4 Q. Okay. And how long were you</p> <p>5 a full-time student?</p> <p>6 A. Just a -- just a semester.</p> <p>7 Q. Okay. And then you took</p> <p>8 some additional classes on a part-time</p> <p>9 basis?</p> <p>10 A. Mm-hmm.</p> <p>11 Q. How long did you do that?</p> <p>12 A. Probably about six months to</p> <p>13 a year. I can't remember exactly.</p> <p>14 Q. Okay. So you have a year of</p> <p>15 full-time and then the next year, was it</p> <p>16 immediately after you kind of switched to</p> <p>17 doing it part-time?</p> <p>18 A. I went to school part-time</p> <p>19 after I was -- started to work for the</p> <p>20 company in Chattanooga.</p> <p>21 Q. Okay. So you were full-time</p> <p>22 student, I assume, right after you</p> <p>23 graduated high school?</p> <p>24 A. Yes, that's correct.</p>

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<p>1 Q. Okay. Then what happened 2 after that first year of school. Let me 3 be more specific. As far as your next 4 career or school movement. Did you 5 immediately start working for 6 AmerisourceBergen?</p> <p>7 A. Pretty much so, as I recall, 8 yeah.</p> <p>9 Q. Okay. And then there was a 10 time when you were working for 11 AmerisourceBergen and attending school as 12 well?</p> <p>13 A. Yes.</p> <p>14 Q. Was that --</p> <p>15 A. Can I correct you on -- it 16 really wasn't AmerisourceBergen at the 17 time. It was an independent drug company 18 called Duff Brothers --</p> <p>19 Q. Okay.</p> <p>20 A. -- in Chattanooga. It was a 21 predecessor company to Amerisource.</p> <p>22 Q. Okay. So during that 23 time -- that was the year immediately 24 following your first full year of</p>	<p>1 Q. Do you remember? 2 A. The first year of college? 3 Q. Yeah. When you were a 4 full-time student? 5 A. Just general courses. 6 Q. Okay. 7 A. Yeah. 8 Q. Did you specialize in any 9 sort of finance classes or business 10 classes or anything like that? 11 A. I don't recall, because I 12 wasn't really sure what I wanted to do. 13 Q. Okay. So then you complete 14 that year, how did you come to work at 15 Duff Brothers? 16 A. Actually went through an 17 employment agency. And that's who they 18 used. And they got me the contact to get 19 the job there at Duff Brothers. 20 Q. And what was your first job 21 there? 22 A. As an order filler in the 23 warehouse. 24 Q. What were your</p>
<p>1 school --</p> <p>2 A. Mm-hmm.</p> <p>3 Q. -- of college?</p> <p>4 A. Mm-hmm. Yes.</p> <p>5 Q. Okay. So during that next 6 year, you attended classes part-time and 7 worked part-time?</p> <p>8 A. I don't recall when I 9 attended classes. It wasn't during that 10 first year of employment. It was 11 sometime after.</p> <p>12 Q. Okay. You said that you 13 took part-time classes for six months to 14 a year. Was that consecutive or was that 15 spread out over time?</p> <p>16 A. I can't recall. I took -- I 17 think I took an accounting course and 18 something else. But it was after I was 19 employed.</p> <p>20 Q. Okay. And that first year 21 when you were full-time, what kind of 22 classes did you take?</p> <p>23 MS. McCLURE: Objection.</p> <p>24 BY MR. PIFKO:</p>	<p>1 responsibilities as an order filler? 2 A. Stocking the shelves and 3 filling orders for pharmaceuticals. 4 Q. So Duff Brothers was, you 5 said, a distributor, small distributor? 6 A. Mm-hmm, yes. 7 Q. What was its area of 8 regional reach? What customers, where 9 were they? 10 A. Mainly the area around 11 Chattanooga, north Georgia, Tennessee, 12 North Carolina. In kind of that regional 13 area around Chattanooga. 14 Q. And what time period is 15 this? Let me ask a more specific 16 question. When did you graduate high 17 school? 18 A. '73, June of '73. 19 Q. Okay. And then you were a 20 full-time student in the school year of 21 '73 to '74? 22 A. Mm-hmm, yes. 23 Q. You started working at Duff 24 Brothers sometime in '74?</p>
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<p style="text-align: right;">Page 22</p> <p>1 A. July of '74. 2 Q. Were you part-time when you 3 started that, or was that a full-time 4 job? 5 A. Full-time. 6 Q. And then how long did you 7 serve as an order filler for? 8 A. I believe about three or 9 four years. 10 Q. What was your next job? 11 A. Lead. 12 Q. It was just called lead? 13 A. Yes, like lead order filler, 14 where you -- 15 Q. Okay. How long were you in 16 that role? 17 A. Just about a year. 18 Q. And then what was your next 19 position? 20 A. After that I supervised a 21 merchandising and labeling crew for about 22 two years. 23 Q. What was your next job? 24 A. Warehouse supervisor.</p>	<p style="text-align: right;">Page 24</p> <p>1 warehouse manager, how long were you in 2 that role? 3 A. Probably a couple of more 4 years after that. 5 Q. Okay. Then you said you 6 were operations manager. 7 A. Mm-hmm. 8 Q. Then you mentioned something 9 about Georgia. So your -- Duff Brothers 10 acquired a company that was based in 11 Georgia? 12 A. Well, our parent company. 13 Q. Okay. Who was the parent 14 company? 15 A. Alco. Alco Standard. 16 Q. How do you spell that? 17 A. A-L-C-O. Alco Standard, 18 S-T-A-N-D-A-R-D. 19 Q. Okay. So what was the name 20 of that company in Georgia that was -- 21 A. Valdosta Drug Company. 22 Q. Sorry. Can you say that 23 again? 24 A. I'm sorry, Valdosta Drug</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Next job after that? 2 A. Warehouse manager. 3 Q. How about after that? 4 A. Operations manager. 5 Q. After that? 6 A. I remained operations 7 manager for several years. Moved to 8 Valdosta, Georgia, in I think '94. And 9 we had acquired a distributor in 10 Valdosta, and we consolidated or closed 11 down that distributor, and then we opened 12 a new distribution center in Orlando. 13 Q. So you threw out a bunch of 14 information there. You mentioned -- so 15 you were -- okay. Let's just make sure 16 that we have time periods on this. 17 So lead order filler for 18 about one year. You were supervising a 19 merchandising and labeling crew for two 20 years. Then you were warehouse 21 supervisor for about how long? 22 A. Couple, a couple of years. 23 I'm not really sure. I don't remember. 24 Q. Then you became manager,</p>	<p style="text-align: right;">Page 25</p> <p>1 Company. 2 Q. Can you spell that? 3 A. V-A-L-D-O-S-T-A. 4 Q. Okay. Did you ever move to 5 Georgia? 6 A. Yes. 7 Q. Okay. So at the time of 8 that acquisition, you moved to Georgia? 9 A. Yes. 10 Q. And then maybe what you were 11 trying to say is, were you personally 12 involved in the consolidation of the -- 13 the facilities? 14 A. Yes. Mm-hmm. 15 Q. Okay. And so you were 16 personally involved in closing down 17 whatever operations and transferring them 18 to the new operation in Orlando, correct? 19 A. That's correct, yes. 20 Q. Do you remember about the 21 time period around when that was, just 22 the year? 23 A. It was late '94, I believe. 24 Q. Okay. And then what did you</p>

<p style="text-align: right;">Page 26</p> <p>1 do after opening the Orlando distribution 2 center? 3 A. After that I went to work 4 for corporate as regulatory affairs 5 manager. And that was probably around 6 2000 I believe. Yeah. 7 Q. Was all that still for -- 8 Well, okay, so you worked for Duff 9 Brothers, but Duff Brothers was owned by 10 Alco Standard. And they acquired -- I 11 don't think I can say it right. 12 A. Valdosta. 13 Q. -- Valdosta Drug Company. 14 What -- what was the name of 15 the company at that point? 16 MS. McCLURE: Objection. 17 BY MR. PIFKO: 18 Q. Still Duff Brothers? 19 MS. McCLURE: Objection. 20 THE WITNESS: Okay. So 21 originally I went to work for Duff 22 Brothers. They were acquired by 23 Alco in '79 I believe. Okay. 24 BY MR. PIFKO:</p>	<p style="text-align: right;">Page 28</p> <p>1 public, yeah. 2 Q. Okay. So then you -- in 3 around the year 2000 you moved into the 4 corporate offices as a regulatory affairs 5 manager, correct? 6 A. No. That's not correct. 7 Q. Oh okay. 8 A. I went to work as a 9 regulatory affairs manager, but I worked 10 from home in Orlando for approximately 11 two years and traveled significantly. 12 Q. Were you the only regulatory 13 affairs manager for Amerisource at that 14 time? 15 A. No. 16 Q. So were you just the 17 regulatory affairs manager for the 18 Orlando facility? 19 A. No. I had a specific 20 assignment for oversight of several 21 distribution centers, but I can't 22 remember, you know, which -- which area 23 of the country it was. 24 Q. Did it include the Orlando</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Okay. And so then in 1994 2 you were still working for Alco, correct? 3 A. Right about that time. 4 Q. Okay. When you opened this 5 Orlando distribution center, who were you 6 employed by? 7 A. Amerisource. 8 Q. Okay. When did Amerisource 9 get involved? 10 A. While I was in Valdosta. 11 The -- it was the company did -- went 12 public as Amerisource. 13 Q. Okay. So you've really been 14 here from the ground floor? 15 A. Yeah. 16 Q. Do you know about when the 17 company started using the name 18 Amerisource? 19 A. Yeah, I think it was '94. 20 Q. Okay. And to your 21 knowledge, that's the first time the 22 company now known as AmerisourceBergen 23 was using Amerisource? 24 A. That's, yeah, when they went</p>	<p style="text-align: right;">Page 29</p> <p>1 distribution center? 2 MS. McCLURE: Objection. 3 You can answer. 4 THE WITNESS: I don't -- I 5 don't believe so. 6 BY MR. PIFKO: 7 Q. Can you name any area that 8 was under your control as a regulatory 9 affairs manager? 10 A. I can't really recall my 11 main -- my main job responsibility was 12 conducting audits of distribution 13 centers. And so it was basically just 14 assisting certain ones if they had 15 regulatory questions or anything like 16 that. 17 Q. Who did you report to when 18 you took that job as regulatory affairs 19 manager in the year 2000? 20 A. Rodney Bias, B-I-A-S is his 21 last name. 22 Q. Where was Rodney based? 23 A. He was based at the 24 corporate offices in Chesterbrook.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. Do you know when the company 2 first had its offices in Chesterbrook? 3 A. I can't remember exactly the 4 date. 5 Q. How about roughly? 6 A. I think it probably would 7 have been late '90s. 8 Q. Around when it went public 9 or after that? 10 A. I think it was around that 11 time. They were in the same area but a 12 different office complex. 13 Q. So you were kind of telling 14 me, but let me just ask you more 15 specifically. What was your job 16 responsibilities as a regulatory affairs 17 manager when you took that position in 18 the year 2000? 19 A. Conduct security and 20 regulatory audits of our distribution 21 centers and provide regulatory 22 assistance. 23 Q. So you would travel to 24 distribution centers to conduct these</p>	<p style="text-align: right;">Page 32</p> <p>1 MS. McCLURE: Objection. 2 THE WITNESS: Yes. 3 BY MR. PIFKO: 4 Q. Okay. What was the nature 5 of your training? 6 A. It was called -- I think at 7 that time it was a 12-hour security and 8 regulatory compliance training program. 9 Q. And how was that conducted? 10 Did someone come and make a presentation 11 to you or was there a video, or do you 12 remember? 13 A. It was basically in-person 14 training at a compliance conference. 15 Q. Did you fly to the 16 headquarters in Chesterbrook to receive 17 that training? 18 A. Sometimes it was there, and 19 other times it was remote. 20 Q. So there was more than one 21 training session? 22 A. Yes. Pretty much annually 23 for the most part. 24 Q. Okay. And so annually</p>
<p style="text-align: right;">Page 31</p> <p>1 audits? 2 A. Mm-hmm, yes, sir. 3 Q. Do you recall about how many 4 distribution centers the company had at 5 that time? 6 A. It seems like it was in the 7 20s, 22, something like that. 8 Q. Did you travel all around 9 the country? 10 A. Yes, sir. 11 Q. Can you remember any 12 specific locations that you recall 13 traveling to to perform these audits? 14 A. Quite a few, yeah. 15 Q. Okay. Just name some that 16 you remember. 17 A. Toledo. Columbus. 18 Portland. Mira Loma, California. Grand 19 Prairie, Texas. Lynchburg, Virginia. I 20 can't remember any others. There were 21 others. 22 Q. Did you receive any special 23 training when you became regulatory 24 affairs manager?</p>	<p style="text-align: right;">Page 33</p> <p>1 was -- you said 10 to 12 hours I think 2 you said? 3 MS. McCLURE: Objection. 4 THE WITNESS: Yes. 5 BY MR. PIFKO: 6 Q. So is that a couple days a 7 year you would do training? 8 A. I believe so, yeah. 9 Q. Do you remember the name of 10 any of the people who performed the 11 training for you? 12 A. Yes. 13 Q. Can you tell me those names? 14 A. Rodney Bias. Larry Holland. 15 Those two mainly. 16 Q. Where was Rodney based? 17 A. In the corporate office. 18 Q. In Chesterbrook? 19 A. Yes. 20 Q. How about Larry Holland? 21 A. He was prior to Rodney. I 22 think he hired Rodney and then I think 23 Larry retired, but I think Larry was 24 there to also -- he worked out of the</p>

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<p>1 corporate office.</p> <p>2 Q. Did you receive any</p> <p>3 documentation when you received these</p> <p>4 trainings?</p> <p>5 A. Yes.</p> <p>6 Q. Were there handouts? Yes?</p> <p>7 A. Yes.</p> <p>8 Q. Can you describe anything</p> <p>9 that you remember from the training?</p> <p>10 A. It pretty much covered all</p> <p>11 of the regulatory requirements that we</p> <p>12 have as a company. And it was focused a</p> <p>13 lot on, you know, DEA regulations and how</p> <p>14 to comply with those. And how the</p> <p>15 company complies with them.</p> <p>16 Q. But the Controlled</p> <p>17 Substances Act, have you heard of that?</p> <p>18 A. Yes. Of course.</p> <p>19 Q. That kind -- the training</p> <p>20 about regulations under the Controlled</p> <p>21 Substance Act; is that correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Did you receive training on,</p> <p>24 have you heard the term diversion?</p>	<p>1 diversion?</p> <p>2 MS. McCLURE: Objection.</p> <p>3 You can answer.</p> <p>4 THE WITNESS: Again, I don't</p> <p>5 remember the exact wording of the</p> <p>6 regulation. But there is -- there</p> <p>7 is a requirement.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Was there training as</p> <p>10 regulatory affairs manager geared around</p> <p>11 what these locations needed to do to</p> <p>12 prevent diversion?</p> <p>13 A. Yes.</p> <p>14 Q. Did you have -- so you</p> <p>15 performed audits, correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Did you have like a</p> <p>18 checklist or some sort of outline you</p> <p>19 would use when you did your audits?</p> <p>20 A. Yes.</p> <p>21 Q. Did that have a name?</p> <p>22 A. It was just security and</p> <p>23 regulatory compliance audit checklist. I</p> <p>24 think something, something like that,</p>	
<p>1 A. Yes.</p> <p>2 Q. Okay. Have you heard about</p> <p>3 the idea of a -- do you know what a</p> <p>4 registrant is?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Have you heard about</p> <p>7 the idea that a registrant has a duty to</p> <p>8 prevent diversion?</p> <p>9 MS. McCLURE: Objection to</p> <p>10 form.</p> <p>11 You can answer.</p> <p>12 THE WITNESS: Yeah, I'm not</p> <p>13 sure of the exact wording, yes.</p> <p>14 But yes.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Okay. Do you understand</p> <p>17 that at that time Amerisource was a</p> <p>18 registrant under the Controlled Substance</p> <p>19 Act?</p> <p>20 A. The Amerisource registered</p> <p>21 locations were, yes.</p> <p>22 Q. Okay. And did you</p> <p>23 understand that those registered</p> <p>24 locations had a duty to prevent</p>	<p>1 yeah.</p> <p>2 Q. Was it a long document?</p> <p>3 MS. McCLURE: Objection.</p> <p>4 Form.</p> <p>5 THE WITNESS: I don't know</p> <p>6 what do you mean by long.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. I knew you were going to say</p> <p>9 that. Was it more than 50 pages?</p> <p>10 A. Again, that depends on like</p> <p>11 is it printed front and back. Or, you</p> <p>12 know, I can tell you that it was</p> <p>13 approximately 200 questions, but it was</p> <p>14 constantly changing.</p> <p>15 Q. This is in 2000 we're</p> <p>16 talking about, correct?</p> <p>17 A. Mm-hmm, yes.</p> <p>18 Q. And so I assume it wasn't</p> <p>19 digital. It wasn't on the internet. You</p> <p>20 had a physical copy?</p> <p>21 A. Right, that's correct.</p> <p>22 Q. You take it with you to when</p> <p>23 you did the audits?</p> <p>24 A. That's correct.</p>	Page 37

<p style="text-align: right;">Page 38</p> <p>1 Q. Okay. Was it in a notebook 2 or something?</p> <p>3 A. Just typically not in a 4 notebook, basically just stapled 5 together.</p> <p>6 Q. Okay. So it was big enough 7 that it could be stapled -- small enough 8 that it could be stapled together, 9 correct?</p> <p>10 A. Or with a binder of some 11 sort, yeah.</p> <p>12 Q. I've got a bunch of papers 13 in front of me. I've got this notepad. 14 I've got a binder here, that's about two 15 inches thick. Was it more like this 16 notepad?</p> <p>17 A. Mm-hmm, yes.</p> <p>18 MS. McCLURE: By "this 19 notepad," do you want to describe 20 that for the record?</p> <p>21 MR. PIFKO: Yeah, for the 22 record the notepad's maybe a 23 centimeter thick. It's a standard 24 legal pad. 8-and a half-by-11</p>	<p style="text-align: right;">Page 40</p> <p>1 there a way that you walked around the 2 plant?</p> <p>3 MS. McCLURE: Objection to 4 form.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. That's what I'm asking -- --</p> <p>7 MS. McCLURE: Compound.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. -- when I say is there a 10 procedure that you followed.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Let me -- I can tell 13 your counsel told you to answer the 14 questions in a very narrow way. So let 15 me just unpack this for you.</p> <p>16 MS. McCLURE: Object to the 17 commentary for the record.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Do you call up somebody at 20 the facility before you are going to 21 conduct the audit to let them know that 22 you were coming?</p> <p>23 A. No.</p> <p>24 Q. You would just show up at</p>
<p style="text-align: right;">Page 39</p> <p>1 piece of paper.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. So -- but something that you 4 can easily just carry along in your 5 hands, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. And so you would take 8 that with you when you would do these 9 audits, correct?</p> <p>10 A. That's correct.</p> <p>11 Q. And then was there a 12 procedure that you would use when you 13 were conducting these audits?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Can you walk me 16 through what the procedure is?</p> <p>17 A. Phew.</p> <p>18 Q. Let me explain what I'm 19 looking for.</p> <p>20 A. Yeah, that would help.</p> <p>21 Q. Do you call the facility in 22 advance of conducting the audit, let them 23 know when they are coming, when you get 24 there, do you talk to a manager? Was</p>	<p style="text-align: right;">Page 41</p> <p>1 random?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. When you arrived at 4 the facility, what was the first thing 5 that you did?</p> <p>6 A. Conduct an opening meeting.</p> <p>7 Q. And just to be clear, you 8 used the same procedure regardless of the 9 location that you were auditing, correct?</p> <p>10 A. That's correct.</p> <p>11 Q. And you used the same audit 12 checklist or document that we talked 13 about, correct?</p> <p>14 A. That's correct.</p> <p>15 Q. So you walk in the facility.</p> <p>16 You ask for somebody. You said you had 17 some sort of meeting. That was the first 18 thing you do?</p> <p>19 A. Mm-hmm, yes.</p> <p>20 Q. Who do you ask for?</p> <p>21 A. I think at that time it 22 would probably have been like the 23 distribution center manager.</p> <p>24 Q. Okay. And so they had no</p>

<p style="text-align: right;">Page 42</p> <p>1 idea that you were coming?</p> <p>2 A. They didn't.</p> <p>3 Q. Okay. They have to drop</p> <p>4 whatever they're doing and come meet with</p> <p>5 you?</p> <p>6 A. Yes.</p> <p>7 Q. So you go meet with them in</p> <p>8 a conference room?</p> <p>9 A. Typically.</p> <p>10 Q. And you tell them, "Hi, I'm</p> <p>11 here to conduct an audit," correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And then you tell them</p> <p>14 things that you are going to be doing in</p> <p>15 the audit, places that you need to go?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. What was the next</p> <p>18 step after you had the initial meeting</p> <p>19 with the distribution center manager?</p> <p>20 A. We would ask them for a list</p> <p>21 of documents and records that we want to</p> <p>22 review. And then we would do a</p> <p>23 walkthrough of the facility.</p> <p>24 Q. Do you recall what the types</p>	<p style="text-align: right;">Page 44</p> <p>1 audit.</p> <p>2 Q. Then you have a document</p> <p>3 that you're using to guide you through</p> <p>4 the process, correct?</p> <p>5 A. That's correct.</p> <p>6 Q. Are you -- you're writing on</p> <p>7 that document things that you're</p> <p>8 observing, as you're doing the walk</p> <p>9 through?</p> <p>10 A. Typically not at the same</p> <p>11 time.</p> <p>12 Q. Okay.</p> <p>13 A. It's cumbersome to carry a</p> <p>14 checklist around all over the place with</p> <p>15 you. So...</p> <p>16 Q. So what happens after you do</p> <p>17 the walkthrough?</p> <p>18 A. Usually go back to wherever</p> <p>19 they've assigned us to work, a conference</p> <p>20 room typically. And wait for them to</p> <p>21 bring the records and things that we had</p> <p>22 requested.</p> <p>23 Q. And then you would review</p> <p>24 the records?</p>
<p style="text-align: right;">Page 43</p> <p>1 of documents were that you would review?</p> <p>2 A. I can't give you an</p> <p>3 all-inclusive list. It would be like DEA</p> <p>4 224 forms, inventory reports, a lot of</p> <p>5 corporate required records about, you</p> <p>6 know, associates. We would ask for</p> <p>7 training records. Things like that.</p> <p>8 Records and reports.</p> <p>9 Q. Have you heard the term</p> <p>10 "suspicious order" before?</p> <p>11 A. Yes.</p> <p>12 Q. Did you ask for suspicious</p> <p>13 order reports as part of these audits?</p> <p>14 A. I believe so.</p> <p>15 Q. And then you said you did a</p> <p>16 walkthrough of the facility?</p> <p>17 A. That's correct.</p> <p>18 Q. What did you do in the</p> <p>19 walkthrough?</p> <p>20 A. Just look for any type of</p> <p>21 obvious security or safety violations.</p> <p>22 Q. And then when you document</p> <p>23 your findings in the walkthrough?</p> <p>24 A. Yes. That's part of the</p>	<p style="text-align: right;">Page 45</p> <p>1 A. Mm-hmm, that's correct.</p> <p>2 Q. And then what would you do?</p> <p>3 A. Well, once we review the</p> <p>4 records, there's typically other parts of</p> <p>5 the audit. We would go back and test the</p> <p>6 doors to the cage and the vault. Make</p> <p>7 sure everything was constructed as it's</p> <p>8 supposed to be, and is secured and</p> <p>9 operating the way it should. We do</p> <p>10 different walkthroughs as part of the</p> <p>11 audit.</p> <p>12 Q. Okay.</p> <p>13 A. Inspect the security.</p> <p>14 Q. After that, what would you</p> <p>15 do?</p> <p>16 A. Complete the review of the</p> <p>17 records. And then at end of the audit we</p> <p>18 would conduct an exit meeting and go over</p> <p>19 our observations with the management</p> <p>20 team.</p> <p>21 Q. Then you would go home?</p> <p>22 A. Go home.</p> <p>23 Q. Okay. How long does the</p> <p>24 audit take from start to finish?</p>

<p style="text-align: right;">Page 46</p> <p>1 A. At that time probably close 2 to a full week. We would usually start 3 on Monday and finish either Thursday 4 afternoon or Friday morning.</p> <p>5 Q. You said we. Did you have a 6 team of people that went with you?</p> <p>7 A. No. Typically it was just 8 one auditor. Sometimes it would be two 9 depending.</p> <p>10 Q. Okay. So you alone or you 11 and someone else?</p> <p>12 A. Typically, yeah. Typically 13 alone.</p> <p>14 Q. Do you remember anyone else 15 that accompanied you on any audits?</p> <p>16 A. No, I don't.</p> <p>17 Q. So you said, we talked about 18 the walk through and documenting your 19 findings.</p> <p>20 Would you then document 21 things after that week was over or you'd 22 be doing it along the way while you were 23 in the offices at the facility?</p> <p>24 A. Well, each auditor -- each</p>	<p style="text-align: right;">Page 48</p> <p>1 report shared with anyone in corporate as 2 well?</p> <p>3 A. Yeah. I mean I had to go 4 over that with my boss to make sure that 5 he was okay with any of the observations 6 and had any comments about, you know, 7 whether they should be revised in any way 8 or...</p> <p>9 Q. You'd go over that with him 10 before you shared it with the 11 distribution center?</p> <p>12 A. Yeah.</p> <p>13 Q. Do you know if the report 14 was filed in any centralized location at 15 the company?</p> <p>16 A. At that time, I'm not really 17 sure. I don't recall how those were 18 maintained.</p> <p>19 Q. How frequently did you -- 20 what -- how frequently would an audit be 21 conducted at a specific distribution 22 center?</p> <p>23 A. For the most part, pretty 24 much every year. Usually annual basis.</p>
<p style="text-align: right;">Page 47</p> <p>1 auditor may have done things a little 2 differently. So it wasn't a standardized 3 process. So, but, you know, typically go 4 back to the office, collect all the notes 5 and observations, and then create a 6 report.</p> <p>7 Q. And was that report 8 completed at the end of the week?</p> <p>9 A. Typically within a two-week 10 period.</p> <p>11 Q. Okay. So within two weeks 12 after you started the audit, you'd have 13 to report complete?</p> <p>14 A. Yes. It would be called a 15 preliminary report.</p> <p>16 Q. Then what did you do with 17 the preliminary report?</p> <p>18 A. That would get issued to the 19 audited -- audited entity. And then they 20 would be given a certain amount of time 21 to provide corrective action responses 22 for any of the observations, written 23 corrective action responses.</p> <p>24 Q. And was this preliminary</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. Was there some -- okay. Was 2 there some sort of regular schedule in 3 which they would be conducted?</p> <p>4 MS. McCLURE: Objection to 5 form. You can answer.</p> <p>6 THE WITNESS: Yeah, I -- I 7 don't recall exactly.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. But generally, once a year 10 for every facility?</p> <p>11 A. Yes.</p> <p>12 Q. Do you remember how many 13 other people had the same job as you at 14 that time?</p> <p>15 A. As I recall, I think there 16 were about three or four of us. I can't 17 remember exactly.</p> <p>18 Q. So at some point you 19 transitioned out of that role, correct?</p> <p>20 A. That's correct.</p> <p>21 Q. What was your role after 22 that?</p> <p>23 A. I think it was as director. 24 And that was when I moved to corporate.</p>

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<p>1 Q. You were director. So you 2 were still in regulatory affairs, you 3 just moved from manager to director? 4 A. I believe so. 5 Q. At some point you moved away 6 from Orlando, correct? 7 A. Yes. 8 Q. Was it at the time when you 9 moved from manager to director? 10 A. I believe so, yeah. 11 Q. And when was that? 12 A. It was, I believe, October 13 2002. 14 Q. Do you know if there was a 15 written policy about the annual audit 16 requirement? 17 A. I believe so, yes. 18 Q. Do you know if there was 19 like a policy number associated with the 20 policy? 21 A. Well, let me -- let me step 22 back. I don't -- I'm not sure there was 23 a written policy that -- that stated that 24 it was an annual inspection. But there</p>	<p>1 Q. Was there a hotline or how 2 would people know how to call -- how to 3 call you? 4 A. I -- I don't remember. I 5 think they -- you know, I'm sure -- no, I 6 don't even want to speculate. I don't 7 remember. 8 Q. Did you have a mobile phone 9 at that time? 10 A. Oh gosh. I don't think so. 11 Q. You worked out of your -- 12 your house at that time? 13 A. From? 14 Q. 2000 to 2002? 15 A. 2000 to 2002, yes. 16 Q. So if you had a business 17 call, they would call your house? 18 A. I don't remember. 19 Q. Did you have a separate 20 office in your house where you would 21 work? 22 A. Yeah. 23 Q. Okay. Do you know -- did 24 you have a separate line for doing work</p>
<p>1 was a written -- written policy on 2 conducting the audits. 3 Q. Okay. 4 A. I don't think it had 5 anything -- I don't think it specified 6 the frequency. 7 Q. And do you remember if there 8 was a policy number for that policy? 9 A. I can't remember the policy 10 number. But there is a policy. 11 Q. When you were manager of 12 regulatory -- when you were regulatory 13 affairs manager, did you have any other 14 job responsibilities besides conducting 15 these audits? 16 A. Yes, I just can't remember 17 what they were at the time. It was 18 basically providing regulatory assistance 19 if there were questions or anything like 20 that from the field. 21 Q. So that -- you were one of a 22 few people that someone could call if 23 they had a compliance question? 24 A. Yes.</p>	<p>1 versus your personal line? 2 A. I can't remember if it was a 3 separate line or not. 4 Q. Okay. But do you know if 5 you had e-mail at that time? 6 A. I believe so. 7 Q. Okay. So when you fielded 8 questions about compliance issues, would 9 those be raised to you by e-mail, or by 10 phone or both? 11 A. Probably both. 12 Q. Okay. Do you recall 13 handling compliance inquiries from your 14 home office? 15 A. I don't remember. 16 Q. Do you know if there is some 17 sort of written documentation that listed 18 you as a contact person for compliance 19 questions? 20 A. There could have been, but 21 I'm not sure. 22 Q. Do you have any idea how 23 someone would know that they could call 24 you if they had a compliance question?</p>

<p style="text-align: right;">Page 54</p> <p>1 A. I assume they had my contact 2 information. I just don't remember 3 exactly what form that was in or whether 4 it was a policy or a sheet or what. 5 Q. Okay. Do you know if there 6 was a company directory? 7 A. I think so. 8 Q. Did you have business cards 9 when you were conducting these audits? 10 A. I think so. But I'm not 11 positive. 12 Q. Did you give people, when 13 you met the distribution center manager, 14 did you give them your business card? 15 A. I think so. But I don't 16 recall 100 percent of the time. 17 Q. Was your name on the audit 18 report? 19 A. Yes. 20 Q. Did you sign it? 21 A. I don't think I signed them, 22 no. But it had my name on them. 23 Q. Do you know if the audit 24 report had your contact information,</p>	<p style="text-align: right;">Page 56</p> <p>1 title was at that time? 2 A. You know what, he may have 3 been director. Maybe it was -- maybe I 4 was manager when I went up there. I 5 don't -- I don't distinctly remember the 6 titles. They changed so much. 7 Q. Okay. But you got promoted 8 in 2002. 9 A. Right. 10 Q. And you moved to the 11 headquarters in Pennsylvania? 12 A. That's correct. 13 Q. How did your -- well, what 14 were your job responsibilities when you 15 got promoted in 2002? 16 A. I supervised the -- the team 17 that did the audits for the most part. 18 Q. Did you provide training to 19 the team that did the audits at that 20 time? 21 A. Yes. 22 Q. Did anyone else provide 23 training? 24 A. I'm sure they do -- did, but</p>
<p style="text-align: right;">Page 55</p> <p>1 e-mail or phone number? 2 A. I think so. Yeah, I believe 3 it did. 4 Q. Do you recall that -- 5 telling the distribution center managers 6 as part of your process, that if they had 7 questions about compliance, they could 8 call you? 9 A. I don't specifically recall 10 telling them that, but that would make 11 sense. 12 Q. So in 2002 you are promoted 13 to regulatory affairs director, correct? 14 A. I believe so. 15 Q. Okay. And you moved to 16 Chesterbrook, Pennsylvania, correct? 17 A. That's correct. 18 Q. Who did you report to at 19 that time? 20 A. Rodney Bias. 21 Q. And did Rodney get a 22 promotion at that same time? 23 A. I don't think so, no. 24 Q. Do you know what Rodney's</p>	<p style="text-align: right;">Page 57</p> <p>1 I don't remember who. Again, we had 2 training every year. 3 Q. I guess I'm specifically 4 speaking about the audits, the audit 5 process. Do you know if you -- if you 6 were the only person who provided 7 training to regulatory affairs people who 8 were conducting audits? 9 A. I don't think it was just 10 me. Maybe one of the more experienced 11 auditors would also train them. 12 Q. Do you know any of the names 13 of the people that you're referring to as 14 more experienced auditors? 15 A. Yes. There was a lady named 16 Jan Black. She was probably the most 17 experienced auditor. 18 Q. Anyone else? 19 A. No. 20 Q. Where was Jan Black located 21 physically? 22 A. She worked out of 23 Charleston, South Carolina. 24 Q. Did you interact with her in</p>

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<p>1 person?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Did you do that in</p> <p>4 Pennsylvania?</p> <p>5 A. Most -- for the most part,</p> <p>6 yes.</p> <p>7 Q. So she would come to</p> <p>8 Pennsylvania to meet with people --</p> <p>9 A. For conferences and meetings</p> <p>10 and so forth.</p> <p>11 Q. So you supervised the</p> <p>12 auditors when -- when you got promoted.</p> <p>13 Anything else you did?</p> <p>14 A. That's all I can recall.</p> <p>15 Q. Did you have -- and part of</p> <p>16 that supervision of the auditors included</p> <p>17 training them, correct?</p> <p>18 A. Training them, yes.</p> <p>19 Q. Did you have written</p> <p>20 documentation that you used when you were</p> <p>21 training the auditors?</p> <p>22 A. I don't believe so, I don't</p> <p>23 believe so. It was pretty much on -- you</p> <p>24 know, we would go out on training audits</p>	<p>1 BY MR. PIFKO:</p> <p>2 Q. How many auditors -- did the</p> <p>3 auditors, when you were -- when you were</p> <p>4 promoted in 2002, did the auditors report</p> <p>5 to you?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. How many were there</p> <p>8 at that time?</p> <p>9 A. I think there were three or</p> <p>10 four. I can't remember the number. It's</p> <p>11 changed over the years.</p> <p>12 Q. Did you receive any</p> <p>13 additional training from somebody else</p> <p>14 when you moved into that new role in</p> <p>15 2002?</p> <p>16 A. No. Just -- no.</p> <p>17 Q. Did you provide performance</p> <p>18 evaluations of the auditors who reported</p> <p>19 to you?</p> <p>20 A. I believe so.</p> <p>21 Q. Was there a document that</p> <p>22 you used to evaluate their performance?</p> <p>23 A. I'm sure there would be,</p> <p>24 yes.</p>	
<p>1 and observe them going through the audit</p> <p>2 process and provide assistance to them.</p> <p>3 Q. Okay. So it wasn't like a</p> <p>4 formal class or office conference room</p> <p>5 setting --</p> <p>6 A. No.</p> <p>7 Q. -- it would just be like</p> <p>8 on-the-job training, you would go with</p> <p>9 them and walk them through the process?</p> <p>10 A. That's correct.</p> <p>11 Q. Was there -- was each</p> <p>12 auditor assigned to a specific region?</p> <p>13 A. I think so. Yes.</p> <p>14 Q. Okay. And we -- we talked</p> <p>15 earlier about you had some sort of</p> <p>16 regional assignment when you were an</p> <p>17 auditor, but you don't remember when it</p> <p>18 was?</p> <p>19 A. I don't --</p> <p>20 MS. McCLURE: Objection,</p> <p>21 misstates the testimony. You can</p> <p>22 answer.</p> <p>23 THE WITNESS: I don't</p> <p>24 remember.</p>	<p>1 Q. But you don't remember?</p> <p>2 A. I don't remember exactly</p> <p>3 what the document is, because again those</p> <p>4 things change over time. I don't</p> <p>5 remember what the process was in that --</p> <p>6 during that time period.</p> <p>7 Q. How frequently did you</p> <p>8 review the auditor's performance?</p> <p>9 A. Well, there's a formal</p> <p>10 performance review that I believe was</p> <p>11 every year. But it was ongoing.</p> <p>12 Q. Was there a way to write</p> <p>13 someone up if you were not satisfied with</p> <p>14 the way they were performing?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Is there an official</p> <p>17 name for the document that you would</p> <p>18 write them up on?</p> <p>19 A. I don't remember what it</p> <p>20 would be.</p> <p>21 Q. Okay. Do you remember doing</p> <p>22 that from time to time?</p> <p>23 A. Not specifics, but I'm sure</p> <p>24 I did.</p>	

<p style="text-align: right;">Page 62</p> <p>1 Q. What -- do you remember what 2 the consequences are if you wrote someone 3 up?</p> <p>4 A. Our company had a 5 progressive discipline par -- policy, so 6 it depended on what the issue was. 7 Typically, it's a verbal to start with, 8 then a written. And then it could be a 9 second written. It just depends on what 10 it is.</p> <p>11 Q. Okay. Could someone be 12 terminated if they had in -- consistency 13 poor performance?</p> <p>14 A. They could.</p> <p>15 Q. Did anyone ever review your 16 performance on the job?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Did you ever receive 19 a poor performance review?</p> <p>20 A. I don't recall ever 21 receiving a poor performance review.</p> <p>22 Q. Do you ever -- ever remember 23 having a verbal warning from someone 24 about your performance?</p>	<p style="text-align: right;">Page 64</p> <p>1 BY MR. PIFKO:</p> <p>2 Q. Okay. I asked you when you 3 were promoted from the position that you 4 were in in 2002. Do you recall me asking 5 that? And you said around 2007.</p> <p>6 MS. McCLURE: Objection.</p> <p>7 THE WITNESS: Again, I don't 8 remember.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Well, do you remember we 11 talked earlier about your trying to 12 provide your best recollection. What's 13 your best recollection of the time when 14 you were promoted from the position that 15 you started in in 2002?</p> <p>16 MS. McCLURE: You can 17 provide your best recollection. 18 But I'm going to counsel the 19 witness not to speculate.</p> <p>20 THE WITNESS: I can't. I 21 just don't remember, you know, 22 when that change happened.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Okay. You said earlier</p>
<p style="text-align: right;">Page 63</p> <p>1 A. I don't recall having one.</p> <p>2 Q. How long were you -- you 3 said it was director, but then you 4 weren't sure if maybe it was manager. 5 The role that you took in 2002, how long 6 were you in that role?</p> <p>7 A. I don't remember when I was 8 promoted again. But it was probably 9 sometime around after 2007, I think.</p> <p>10 Q. What was your role then?</p> <p>11 A. I think it was -- I believe 12 it was director. And I just can't 13 remember when I was promoted to senior 14 director. There's been so many changes 15 over the years. I don't remember the 16 titles and exactly when.</p> <p>17 Q. So at some point you were 18 director. And then at some point you 19 were senior director, correct?</p> <p>20 A. Mm-hmm, that's correct.</p> <p>21 Q. Okay. But you distinctly 22 remember a promotion in 2007?</p> <p>23 MS. McCLURE: Objection.</p> <p>24 THE WITNESS: No.</p>	<p style="text-align: right;">Page 65</p> <p>1 something about 2007. What struck out 2 about that time for you?</p> <p>3 A. My responsibilities, you 4 know, increased.</p> <p>5 Q. Okay. So regardless of the 6 title. At some point around 2007, your 7 responsibilities increased, correct?</p> <p>8 A. That's correct.</p> <p>9 Q. Okay. What were your 10 increased responsibilities at that time?</p> <p>11 A. Developing the -- enhancing 12 the order monitoring program.</p> <p>13 Q. Was there something that 14 happened that caused you to remember the 15 year 2007?</p> <p>16 A. Mm-hmm.</p> <p>17 Q. What's that?</p> <p>18 A. That was when we had the 19 suspension of our registration at the 20 Orlando facility.</p> <p>21 Q. Do you know if the company 22 entered into a settlement with the DEA at 23 that time in connection with the 24 suspension?</p>

	Page 66	Page 68
1 A. Yes, they did. 2 Q. Okay. I'm handing you 3 what's been previously marked as 4 Zimmerman Exhibit 5. Have you seen this 5 before? 6 A. I have, yes. 7 Q. Is this -- this the 8 settlement agreement to which we were 9 just discussing? 10 A. Yes, I believe it is. 11 Q. Okay. Is there a date on 12 there? 13 A. The day that it was signed? 14 Q. Yeah. 15 A. Yeah. It looks like June of 16 2007, June 22nd. 17 Q. So there was a shift in your 18 responsibilities as a result of that 19 settlement, correct? 20 A. That's correct. 21 Q. And you said at that time 22 you took over the responsibility of 23 developing and enhancing the company's 24 order monitoring program, correct?	1 settlement agreement, correct? 2 A. It was a different program, 3 yes. 4 Q. Okay. So I'm just saying if 5 I call it the pre-2007 order monitoring 6 program, can we have a common 7 understanding that that means the program 8 that was in place before the new one that 9 you developed from the settlement 10 agreement? 11 A. I think so, yes. 12 Q. Okay. So the pre-2007 order 13 monitoring program, you had familiarity 14 with that program, correct? 15 A. Yes. 16 Q. Okay. How did you come to 17 be familiar with that program? 18 A. Just as part of my job 19 responsibilities, my boss helped develop 20 that program, Chris Zimmerman. 21 Q. Okay. When did Chris 22 Zimmerman become your boss? 23 A. In -- well, he -- at the -- 24 you mean my direct boss?	
1 A. Or overseeing the 2 development of it. 3 Q. Okay. Over -- so you were 4 in charge of overseeing the development 5 of the order monitoring program? 6 A. Of the enhancement of it, 7 yes. 8 Q. Okay. Did the company have 9 an order monitoring program prior to 10 2007? 11 A. Yes. 12 Q. Are you familiar with what 13 the company's order monitoring program 14 was prior to 2007? 15 A. Yes. 16 Q. How did you come to be 17 familiar with the company's -- can I just 18 call it the pre-2007 order monitoring 19 program for that -- 20 A. Fine with me. 21 Q. If I use that term, can 22 we -- can we agree that that means the 23 program that was in place prior to the 24 program that was developed from the	Page 67	Page 69 1 Q. Well -- 2 A. Or -- he was the head of the 3 department at the time of the merger, 4 became the head of the department. 5 Q. Okay. Let's go through some 6 of those details. 7 A. Okay. 8 Q. Rodney Bias was your 9 supervisor -- 10 A. That's correct. 11 Q. -- for a time period? 12 A. Mm-hmm. 13 Q. Then you moved to the 14 headquarters in 2002. And you said 15 Rodney was still your supervisor at that 16 time? 17 A. Yes. Yes. 18 Q. Okay. At some point there 19 was another corporate merger, correct? 20 A. Not after 2002, I don't 21 believe. 22 Q. The only ones that we've 23 discussed -- maybe it's in your head but 24 we haven't discussed it.

<p style="text-align: right;">Page 70</p> <p>1 A. All right.</p> <p>2 Q. So we talked about some of</p> <p>3 the earlier iterations of the company.</p> <p>4 But at some point Amerisource merged with</p> <p>5 the Bergen Corporation, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. And do you know on or around</p> <p>8 when that was?</p> <p>9 A. Yeah, it was 2001.</p> <p>10 Q. And that's while you were</p> <p>11 serving as regulatory affairs manager,</p> <p>12 correct?</p> <p>13 A. That's correct.</p> <p>14 Q. Did anything about your job</p> <p>15 change after that merger, in that -- in</p> <p>16 that immediate time period?</p> <p>17 A. I don't recall, because I</p> <p>18 was already working for corporate so.</p> <p>19 Q. So you were a regulatory</p> <p>20 affairs manager from 2000 to 2002. And</p> <p>21 halfway through that period there was a</p> <p>22 merger between Amerisource and the Bergen</p> <p>23 Corporation, correct?</p> <p>24 A. That's correct.</p>	<p style="text-align: right;">Page 72</p> <p>1 A. No, I don't remember exactly</p> <p>2 when it was, but Rodney Bias left the</p> <p>3 company and I was promoted to his</p> <p>4 position.</p> <p>5 Q. Okay. And that was -- but</p> <p>6 that was before 2007?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So maybe that's in</p> <p>9 your mind when you moved from manager to</p> <p>10 director, it was sometime between 2002</p> <p>11 and 2007?</p> <p>12 A. I believe so.</p> <p>13 Q. Okay. And at that time you</p> <p>14 started reporting directly to Chris</p> <p>15 Zimmerman?</p> <p>16 A. That's correct.</p> <p>17 Q. Chris Zimmerman came to the</p> <p>18 company through the Bergen Corporation,</p> <p>19 correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. Prior to -- well,</p> <p>22 when was the first time that you met</p> <p>23 Chris Zimmerman?</p> <p>24 A. I think it was -- it was</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. Okay. And you don't</p> <p>2 remember anything dramatic changing about</p> <p>3 your job during that time period?</p> <p>4 A. I don't remember anything</p> <p>5 dramatic, no.</p> <p>6 Q. And then in 2002, you moved</p> <p>7 to the headquarters in Pennsylvania. And</p> <p>8 at that time, it was the</p> <p>9 AmerisourceBergen Corporation that we</p> <p>10 know today, correct?</p> <p>11 A. Yes. That's correct.</p> <p>12 Q. Okay. And Rodney Bias was</p> <p>13 still your manager in 2002, correct?</p> <p>14 A. Yes.</p> <p>15 Q. At some point he wasn't your</p> <p>16 manager, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Do you remember who the next</p> <p>19 person who you reported to was?</p> <p>20 A. That would have been Chris</p> <p>21 Zimmerman, yeah.</p> <p>22 Q. Okay. Do you have a</p> <p>23 recollection about when you started</p> <p>24 reporting directly to Chris Zimmerman?</p>	<p style="text-align: right;">Page 73</p> <p>1 sometime in 2001. It might have been</p> <p>2 right after the merger. I remember him</p> <p>3 coming to Orlando, because I think I was</p> <p>4 still working there then. And I remember</p> <p>5 meeting him there, at the distribution</p> <p>6 center. He came for a visit.</p> <p>7 Q. Okay. So when he assumed</p> <p>8 his new role at the merged corporation,</p> <p>9 one of the things he did was come to the</p> <p>10 Orlando facility?</p> <p>11 A. I believe so.</p> <p>12 Q. And in connection with that</p> <p>13 visit was the first time you met him?</p> <p>14 A. Mm-hmm, yes.</p> <p>15 Q. Okay. And then you started</p> <p>16 reporting to him sometime in between 2002</p> <p>17 and 2007, correct?</p> <p>18 A. I believe that's correct.</p> <p>19 Q. Okay. After you started</p> <p>20 reporting to him, did you have any</p> <p>21 involvement with the order monitoring</p> <p>22 program?</p> <p>23 A. After I started reporting?</p> <p>24 Q. Immediately after you</p>

<p style="text-align: right;">Page 74</p> <p>1 started reporting to him. 2 A. Yes. 3 Q. Okay. And what was the 4 nature of your involvement with the order 5 monitoring program at that time? 6 A. It was just because it was 7 part of regulatory compliance. It was 8 part of my job responsibilities to make 9 sure that we were reporting. 10 Q. When you say reporting, what 11 do you mean? 12 A. Reporting suspicious orders 13 to DEA. 14 Q. When was the first time that 15 you recall becoming familiar with the 16 idea of reporting suspicious orders to 17 the DEA? 18 A. Way back when I was in 19 Chattanooga as an operations manager. 20 Q. Okay. And you just 21 testified that it was part of your job to 22 ensure that the company was reporting 23 suspicious orders to DEA, correct? 24 A. That we were complying with</p>	<p style="text-align: right;">Page 76</p> <p>1 Corporation? 2 A. I don't recall what it was. 3 Q. Did you ever receive any 4 training from anyone in the time when you 5 were just at the Amerisource Corporation 6 about the order monitoring program? 7 A. I don't remember. 8 Q. Sitting here today, can you 9 describe anything about the Amerisource 10 order monitoring program? 11 A. I can't remember specifics. 12 Q. Have you ever heard the term 13 "threshold"?</p> <p>14 A. Yes. 15 Q. Do you know what that means? 16 A. What "threshold" means? 17 Basically, yes. 18 Q. What's your understanding of 19 what the term "threshold" means? 20 A. Basically it's a trigger. 21 Q. A trigger for what? 22 A. Well, as -- as it relates to 23 suspicious order reporting? Is that what 24 you're asking?</p>
<p style="text-align: right;">Page 75</p> <p>1 the requirement, yes. 2 Q. When did you first 3 understand that to be part of your job? 4 A. Probably sometime after I 5 moved to the corporate office. 6 Q. Sometime after 2002? 7 A. Yes. 8 Q. So you said that Chris 9 Zimmerman developed the pre-2007 order 10 monitoring program, correct? 11 A. Well, it was developed by 12 Bergen. He oversaw the development, but 13 I don't think he personally developed the 14 program. 15 Q. Okay. Did Amerisource have 16 an order monitoring program prior to the 17 merger with the Bergen Corporation? 18 A. Yes. 19 Q. Are you familiar with what 20 the program was? 21 A. I don't recall. 22 Q. Did you have any role in 23 carrying out any attributes of the 24 program when you were at the Amerisource</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. I'm asking for your 2 understanding. So you tell me. 3 A. Well, just the word 4 "threshold" -- 5 Q. Okay. Fair enough. We're 6 talking about the order monitoring 7 program. 8 A. Okay. 9 Q. So do you have an 10 understanding that threshold has a 11 meaning within the idea of an order 12 monitoring program? 13 A. Yes, it does. 14 Q. Okay. And what's your 15 understanding of what a threshold is in 16 the context of an order monitoring 17 program? 18 A. A threshold would be a 19 quantity of controlled substances, 20 depending on what drug family it is that 21 is being ordered that would trigger an 22 order to be reviewed. 23 Q. And reviewed for what? 24 A. Reviewed to determine</p>

<p style="text-align: right;">Page 78</p> <p>1 whether it would be considered suspicious 2 or not. 3 Q. I'm talking about just the 4 time before Amerisource merged with the 5 Bergen Corporation. Do you know if 6 Amerisource's ordering monitoring program 7 used thresholds? 8 A. I don't think so. 9 Q. You don't think it did? 10 A. I don't think so. 11 Q. Do you have any idea of what 12 the criteria were under the Amerisource 13 order monitoring program for reviewing an 14 order to determine whether it was 15 suspicious? 16 A. To the best of my 17 recollection it was just a percentage. 18 It was a formula that I think had been 19 provided by the trade association or 20 something back in the day, or from DEA. 21 I can't remember where the formula came 22 from. But it was looking at a percentage 23 of that customer's orders, if it exceeded 24 a certain percentage of their normal</p>	<p style="text-align: right;">Page 80</p> <p>1 have you heard of ARCOS? 2 A. Yes, I do. 3 Q. Okay. So under ARCOS, a 4 distributor is required to report all 5 orders to the DEA, correct? 6 A. No. That's not correct. 7 Q. Of controlled -- sorry, 8 I'm -- I'm making assumptions in my 9 question there. 10 Of controlled substances, 11 certain identified controlled substances, 12 all orders must be reported to DEA 13 through the ARCOS program, right? 14 A. All ARCOS required -- all 15 ARCOS reportable controlled substances, 16 yes. 17 Q. Okay. And so when we are 18 talking about this, again we are just 19 talking about the Amerisource -- prior to 20 the Amerisource and Bergen Corporation 21 merger -- 22 A. Mm-hmm. 23 Q. -- and we talked about 24 exceeding some sort of percentage of that</p>
<p style="text-align: right;">Page 79</p> <p>1 monthly purchase of that drug, that it 2 would be flagged. 3 Q. Okay. Then it would be 4 flagged as suspicious? 5 A. On the report. 6 MS. MCCLURE: Objection. 7 THE WITNESS: I'm not sure. 8 I don't think it was flagged as 9 suspicious. 10 BY MR. PIFKO: 11 Q. Okay. It would be flagged 12 for review? 13 A. Just flagged for -- for a 14 report to be sent to DEA. 15 Q. Okay. And reported -- 16 A. This is -- we're still 17 talking about the Amerisource days, 18 right? 19 Q. Yes. Reported to DEA as 20 what? 21 A. I don't remember what -- how 22 it was reported. Possible -- possible 23 suspicious order or something like that. 24 Q. Okay. You understand --</p>	<p style="text-align: right;">Page 81</p> <p>1 month's order and reporting to DEA. 2 We're -- we're talking about a report 3 that has nothing to do with ARCOS, right? 4 We are talking about a separate report, 5 correct? 6 A. Yes. 7 Q. Okay. And you don't know 8 what that report is, but it's in 9 connection with some sort of suspicious 10 order, regulations or requirements? 11 A. As I recall, yes. 12 Q. Okay. Do you recall if 13 Amerisource, pre-Amerisource and Bergen 14 merger, had any other criteria for 15 evaluating whether an order was 16 suspicious? 17 A. Yes. 18 Q. What were those criteria? 19 A. We had a posting that we 20 required, that was required to be posted 21 in the cage and vault that had quantities 22 listed that -- for order fillers at the 23 time, that they could also -- you know, 24 we didn't want to rely totally on the</p>

<p style="text-align: right;">Page 82</p> <p>1 computer system to identify an order that 2 could be potentially suspicious. So 3 there were base -- I think it was base 4 quantities that an order filler could 5 review to see if it might be considered 6 suspicious. I don't remember what it was 7 called.</p> <p>8 Q. Okay. So there's base 9 quantities and then some sort of 10 percentage over that customer's months -- 11 prior month's order that could lead an 12 order to be reported to the DEA as 13 suspicious, is that correct?</p> <p>14 MS. McCLURE: Objection to 15 form.</p> <p>16 THE WITNESS: I think so. I 17 don't remember how that -- I think 18 it was a monthly report, but I 19 don't remember exactly.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. When you say a monthly 22 report, you mean the -- the reporting to 23 DEA was -- was monthly or --</p> <p>24 A. No. There was a report sent</p>	<p style="text-align: right;">Page 84</p> <p>1 A. That's correct.</p> <p>2 Q. If an order was included in 3 this monthly report that you're talking 4 about that was sent to the DEA, did the 5 company still ship the order?</p> <p>6 A. At that time I believe so, 7 for the most part.</p> <p>8 Q. What would be the exception?</p> <p>9 A. I think in some cases they 10 may have called a customer. It depends 11 on how late in the day it was, and ask a 12 question about it. And if it was unusual 13 for some reason, they may cancel the 14 order. But for the most part they were 15 shipped.</p> <p>16 Q. Okay. Then 2002, you moved 17 to the headquarters and you start at some 18 point between 2002 and 2007 -- you start 19 reporting to Chris Zimmerman, correct?</p> <p>20 A. That's correct.</p> <p>21 Q. So you said that 22 Mr. Zimmerman, it was your understanding 23 that Mr. Zimmerman oversaw the 24 development of the suspicious order</p>
<p style="text-align: right;">Page 83</p> <p>1 to DEA monthly.</p> <p>2 Q. Okay. So there's some kind 3 of suspicious order report sent to the 4 DEA every month?</p> <p>5 MS. McCLURE: Objection. 6 Form.</p> <p>7 THE WITNESS: Again, I'm not 8 sure what it was called. But it 9 was a report that was sent to the 10 DEA I believe every -- I believe 11 every month.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. Okay. And again, for 14 clarity, this is separate than the ARCOS 15 reporting, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And so for an order 18 to be included in this report to the DEA, 19 in the pre, before the merger between 20 Amerisource and the Bergen Corporation, 21 it could exceed some absolute number that 22 was posted in the cage or it would exceed 23 that customer -- some percentage of that 24 customer's prior order, correct?</p>	<p style="text-align: right;">Page 85</p> <p>1 monitoring program at the Bergen 2 Corporation; is that correct?</p> <p>3 MS. McCLURE: Objection. 4 Form.</p> <p>5 THE WITNESS: Again, I don't 6 know how much involved he was. I 7 just saw his correspondence back 8 and forth with DEA to get it 9 approved.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. So ultimately the 12 AmerisourceBergen Corporation decided to 13 use the Bergen Corporation's ordering 14 monitoring program, correct?</p> <p>15 A. That's my understanding, 16 yes.</p> <p>17 Q. Do you have any knowledge 18 about the decisionmaking process, about 19 how the company came to decide to use the 20 Bergen Corporation's order monitoring 21 program as opposed to Amerisource's order 22 monitoring program?</p> <p>23 A. No.</p> <p>24 Q. Do you know who might have</p>

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<p>1 made that decision?</p> <p>2 A. No.</p> <p>3 MS. McCLURE: Mark, at some</p> <p>4 point soon, if there's an</p> <p>5 appropriate time for a break, I</p> <p>6 appreciate that.</p> <p>7 MR. PIFKO: Yeah, we can</p> <p>8 take a break right now.</p> <p>9 MS. McCLURE: Thank you.</p> <p>10 THE VIDEOGRAPHER: We are</p> <p>11 going off the record. The time is</p> <p>12 10:49.</p> <p>13 (Short break.)</p> <p>14 THE VIDEOGRAPHER: Going</p> <p>15 back on the record. Beginning of</p> <p>16 Media File Number 2. The time is</p> <p>17 11:05.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. I believe I asked you</p> <p>20 earlier, but do you recall ever</p> <p>21 conducting an audit of the Orlando</p> <p>22 facility that had its registration</p> <p>23 revoked?</p> <p>24 A. Did you say -- can you</p>	<p>1 A. Probably between -- don't</p> <p>2 know for sure. I think it was between</p> <p>3 2002 and 2007. Something like that.</p> <p>4 Somewhere in that time frame.</p> <p>5 Q. And when you weren't the</p> <p>6 actual one who audited that facility, you</p> <p>7 also managed all the -- all the auditors,</p> <p>8 correct?</p> <p>9 A. After 2002, yes.</p> <p>10 Q. Okay. So whoever it was</p> <p>11 that audited the facility was a direct</p> <p>12 report to you, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. And I believe you said</p> <p>15 earlier, you -- you actually were the</p> <p>16 person who established that facility in</p> <p>17 your -- back in the old days of your</p> <p>18 original job, correct?</p> <p>19 A. As the operations manager,</p> <p>20 yes.</p> <p>21 Q. When you -- on the two</p> <p>22 occasions that you recall inspecting the</p> <p>23 Orlando facility, do you recall</p> <p>24 identifying any concerns that would lead</p>	
	Page 87	Page 89
<p>1 repeat that?</p> <p>2 Q. So, okay. We talked about</p> <p>3 the 2007 settlement agreement. You have</p> <p>4 a copy of that in front of you, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And that concerned --</p> <p>7 A. Yes.</p> <p>8 Q. -- an Orlando facility</p> <p>9 distribution center, correct?</p> <p>10 A. That's correct.</p> <p>11 Q. And you, you performed</p> <p>12 audits of the company's distribution</p> <p>13 centers, correct?</p> <p>14 A. That's correct.</p> <p>15 Q. And did you ever audit the</p> <p>16 Orlando facility?</p> <p>17 A. Yes. Yeah.</p> <p>18 Q. How many occasions do you</p> <p>19 recall auditing the Orlando facility?</p> <p>20 A. I think two. But I'm not --</p> <p>21 I'm not 100 percent positive. But I</p> <p>22 think two times.</p> <p>23 Q. Do you remember when that</p> <p>24 was?</p>	<p>1 you to believe that the registration for</p> <p>2 that facility would be in jeopardy?</p> <p>3 MS. McCLURE: Objection to</p> <p>4 form. You can answer.</p> <p>5 THE WITNESS: No.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. At any point when you were</p> <p>8 supervising the people that conducted the</p> <p>9 audits of that facility, did anyone bring</p> <p>10 concerns to you about the Orlando</p> <p>11 facility that would have led you to</p> <p>12 believe that its registration was in</p> <p>13 jeopardy?</p> <p>14 A. No.</p> <p>15 Q. You talked about when you</p> <p>16 were -- we talked about the audit</p> <p>17 process. And you said that when you</p> <p>18 conducted an audit, one of the parts of</p> <p>19 the process was that you had to share it</p> <p>20 with your boss before you shared it with</p> <p>21 the facility, just to go over it with</p> <p>22 them, correct?</p> <p>23 A. That's correct.</p> <p>24 Q. Was that the same policy</p>	

<p style="text-align: right;">Page 90</p> <p>1 when you were supervising auditors, they 2 had to also share their reports with you 3 before they sent it to the manager of 4 that facility, is that correct? 5 A. That's correct. 6 Q. Okay. And so the audits of 7 the Orlando facility where you were not 8 the one conducting it, those would have 9 been shared with you, correct? 10 A. That's correct. 11 Q. Okay. And do you ever 12 recall seeing anything in the audit 13 reports that would have led you to 14 believe that the registration would be in 15 jeopardy for that facility? 16 A. No. 17 Q. Upon learning that the 18 registration for that facility was 19 suspended, did you revamp the audit 20 process so that you could identify those 21 issues ahead of time? 22 MS. McCLURE: Objection. 23 Miss -- foundation. 24 THE WITNESS: Repeat the</p>	<p style="text-align: right;">Page 92</p> <p>1 about what the basis was for suspending 2 the registration of the Orlando facility? 3 A. My understanding, it was for 4 excessive sales to internet pharmacies. 5 Q. And that wasn't something 6 that you were examining in connection 7 with the audit process? 8 A. We -- 9 MS. McCLURE: Objection to 10 form. You may answer. 11 THE WITNESS: We -- we -- 12 part of the audit process is to 13 ensure that the -- the DC is 14 reporting suspicious orders as 15 required by the regulation. 16 BY MR. PIFKO: 17 Q. And did -- did the audits of 18 the Orlando facility prior to the 2007 19 suspension, did they review the 20 suspicious orders coming from that 21 facilities -- coming from that facility? 22 A. As I recall, I believe the 23 suspicious orders were reported 24 centrally, from a central location. I</p>
<p style="text-align: right;">Page 91</p> <p>1 question again just so I'm sure I 2 understand what you're asking. 3 BY MR. PIFKO: 4 Q. Okay. Well, we'll -- 5 let's -- the audit process failed to 6 identify the issues that led to the 7 registration suspension, correct? 8 MS. McCLURE: Objection. 9 Assumes facts not in evidence. 10 THE WITNESS: Disagree. 11 MS. McCLURE: Foundation. 12 THE WITNESS: I disagree. 13 BY MR. PIFKO: 14 Q. Okay. So the audits did 15 identify the issues that led to the 16 registration suspension? 17 MS. McCLURE: Objection. 18 Form. 19 THE WITNESS: We audit for 20 compliance with the regulations, 21 and we were -- the DC was 22 complying with the regulations. 23 BY MR. PIFKO: 24 Q. What is your understanding</p>	<p style="text-align: right;">Page 93</p> <p>1 don't think the DC actually sent those 2 in. I think they may have been sent from 3 headquarters. But I'm not positive. But 4 it's a report. 5 Q. Okay. But the audit would 6 identify orders from that facility that 7 would have been included in the report? 8 MS. McCLURE: Objection. 9 Assumes facts not in evidence. 10 Foundation. 11 THE WITNESS: The audit just 12 ensures that they're reporting. 13 BY MR. PIFKO: 14 Q. Okay. 15 A. The company is reporting 16 from the DC. 17 Q. Okay. Just so just I 18 understand the process. The process is 19 for the DC to report them to the company. 20 And then the company sends the report to 21 the DEA? 22 A. No. That's incorrect. 23 Q. Well, you tell me. What's 24 the process?</p>

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<p>1 A. The way I understand the 2 process at that -- at that time, was the, 3 I believe the central processing center 4 was in, based in California. And they 5 would generate the reports from there. 6 I just can't remember if 7 they were sent to the DC, to the DC to 8 send it to local office or whether they 9 were sent directly to the local DEA 10 office.</p> <p>11 Q. Okay. So when you're 12 conducting the audit and you are trying 13 to ensure compliance with the suspicious 14 order requirements, what are you looking 15 at at the distribution center?</p> <p>16 A. I can't recall what we were 17 looking at. I think we may have checked 18 that separately at corporate to make sure 19 that the reports were being sent.</p> <p>20 Q. Okay. And do you recall at 21 any point while you were in your role as 22 a compliance auditor, either a manager or 23 as an actual auditor, checking the 24 suspicious order reports from the Orlando</p>	<p>1 led to that suspension? 2 A. No. 3 Q. So you believe the audit 4 process was fine even though the facility 5 had its registration suspended? 6 A. Yes. 7 Q. Was there any disciplinary 8 action taken against anyone in the 9 compliance division or department as a 10 result of the suspension of the Orlando 11 facility's registration?</p> <p>12 MS. McCLURE: Objection to 13 form.</p> <p>14 THE WITNESS: No, not that I 15 recall.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Did you undertake to make 18 any modifications to the audit process as 19 a result of the suspension of the Orlando 20 facility's registration?</p> <p>21 A. No.</p> <p>22 Q. Did you know at that time 23 whether any of the other distribution 24 centers were potentially going to have</p>
<p>1 facility?</p> <p>2 A. I don't recall.</p> <p>3 Q. Do you know if anyone else 4 checked the suspicious order reports for 5 that facility?</p> <p>6 MS. McCLURE: Objection.</p> <p>7 THE WITNESS: I don't 8 recall.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Can you recall anything 11 about what would have been done to ensure 12 that the facility was reporting and 13 identifying suspicious orders?</p> <p>14 A. I can't remember how we 15 checked that.</p> <p>16 Q. So it's your understanding 17 that suspicious orders were part of the 18 basis for the suspension of the 19 registration in 2007?</p> <p>20 A. That's my understanding.</p> <p>21 Q. At the Orlando facility?</p> <p>22 A. That's my understanding.</p> <p>23 Q. And so do you believe that 24 the audit process missed something that</p>	<p>1 their registration suspended for reasons 2 that were similar to the Orlando 3 facility?</p> <p>4 MS. McCLURE: Objection.</p> <p>5 THE WITNESS: At the time -- 6 I'm sorry.</p> <p>7 MS. McCLURE: That's okay. 8 Objection to form.</p> <p>9 THE WITNESS: At the time of 10 the Orlando suspension?</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Yes.</p> <p>13 A. No.</p> <p>14 Q. You didn't know either way?</p> <p>15 A. I didn't know whether any 16 other DC had any concerns.</p> <p>17 Q. But you weren't aware of any 18 concerns at the Orlando facility at that 19 time either, correct?</p> <p>20 A. No.</p> <p>21 MS. McCLURE: Objection.</p> <p>22 You may answer.</p> <p>23 THE WITNESS: Could you 24 repeat the question?</p>

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<p>1 BY MR. PIFKO:</p> <p>2 Q. At that time, you weren't 3 aware of any concerns at the Orlando 4 facility either, correct?</p> <p>5 MS. McCLURE: Objection.</p> <p>6 THE WITNESS: That's 7 correct.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. Did you change anything 10 about the operations at the Orlando 11 facility after its registration was 12 suspended?</p> <p>13 A. Not immediately after, no.</p> <p>14 Q. Ultimately, you testified 15 earlier you did supervise the development 16 of an enhanced order monitoring program, 17 correct?</p> <p>18 A. That's correct.</p> <p>19 Q. But that was company-wide 20 correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. So --</p> <p>23 A. Let me correct that. That's 24 for the AmerisourceBergen Drug Company.</p>	<p>1 registration with anyone?</p> <p>2 A. Yes.</p> <p>3 Q. With who?</p> <p>4 A. Internally.</p> <p>5 Q. Who internally?</p> <p>6 A. In our department --</p> <p>7 Q. Chris Zimmerman?</p> <p>8 A. -- with our company, with 9 Chris.</p> <p>10 Q. Anyone else?</p> <p>11 A. I can't remember. Pretty 12 much everyone in our department, we 13 discussed what we needed to do.</p> <p>14 Q. How many people were in your 15 department at that time?</p> <p>16 A. Maybe a dozen. I'm not 17 sure. I don't remember.</p> <p>18 Q. And when you say your 19 department, you mean the CSRA department?</p> <p>20 A. That's correct.</p> <p>21 Q. So let's talk about the 22 order monitoring program that existed 23 after the AmerisourceBergen Corporation 24 merger, Amerisource and Bergen</p>
<p>1 Q. Okay. As opposed to --</p> <p>2 A. Well, they have other 3 subsidiaries. Yeah.</p> <p>4 Q. Okay. Is it your opinion 5 that there was nothing wrong with the 6 audit process at the Orlando facility?</p> <p>7 A. The audit process? No.</p> <p>8 Q. Is it your opinion that 9 there was nothing wrong with the 10 suspicious order identification and 11 reporting process at the Orlando 12 facility?</p> <p>13 A. Can you repeat that? I'm 14 sorry.</p> <p>15 Q. Yeah. Is it your opinion 16 that there was nothing wrong with the 17 process of identifying and reporting 18 suspicious orders at the Orlando 19 facilities at that time?</p> <p>20 A. There was nothing wrong with 21 it, no.</p> <p>22 Q. Okay. Did you ever discuss 23 the findings of the DEA that led to its 24 suspension of the Orlando facility's</p>	<p>1 Corporation merger but before 2007.</p> <p>2 Okay?</p> <p>3 A. Okay.</p> <p>4 Q. You have an understanding 5 about what that program was?</p> <p>6 A. Basically, yes.</p> <p>7 Q. Okay. What's your 8 understanding of how that program worked?</p> <p>9 A. I believe it was similar to 10 the way I described the AmerisourceBergen 11 report. There was a report that would be 12 generated on a -- I think it was a 13 monthly basis. I don't know if it was a 14 daily. I don't remember if it was 15 monthly. But it was built based on the 16 customer's purchasing history and 17 anything over a certain percentage would 18 be flagged on this report. It was called 19 a possible excessive purchase report, I 20 believe was the name of it.</p> <p>21 Q. And then that would be sent 22 to DEA?</p> <p>23 A. That would be sent to DEA, 24 the individual field offices.</p>

<p>1 Q. And did you -- did that 2 order monitoring program use thresholds 3 as we discussed earlier? 4 A. I don't believe it used 5 thresholds, no. 6 Q. Just some percentage of the 7 customer's prior month's orders? 8 A. For each -- for each drug 9 item, I believe. 10 Q. When you say each drug item, 11 what do you mean? 12 A. I think it was -- I don't 13 want to speculate. Each drug. 14 Q. Okay. You understand that 15 we're here in a -- in connection with a 16 lawsuit about opioids, correct? 17 A. Yes. I understand that. 18 Q. Let's talk about that for 19 just a minute. 20 A. Okay. 21 Q. Do you know what an opioid 22 is? 23 A. Yes, for the most part, yes. 24 Q. What's your understanding of</p>	<p>Page 102</p> <p>1 Q. Do you know of any other 2 types of opioids? 3 A. Like, morphine, I think. 4 Yeah. There may be some others. 5 Fentanyl. Fentanyl I think is synthetic. 6 Q. Okay. So those are all 7 types of opioids, to your knowledge? 8 A. I believe so. 9 Q. Okay. And so when we talk 10 about monitoring a customer's purchase 11 history, do you know the level of -- are 12 they just -- are they monitoring 13 oxycodone purchases or hydrocodone 14 purchases? Do you have any understanding 15 of what specifically is being monitored? 16 MS. McCLURE: Objection to 17 form. 18 THE WITNESS: Are you asking 19 in relation to the enhanced 20 program? 21 BY MR. PIFKO: 22 Q. No. 23 A. Or what time frame are we 24 talking about here?</p> <p>Page 104</p>
<p>1 what an opioid is? 2 A. I believe it's basically any 3 drug that was manufactured that contains 4 some derivative of opium, I suppose. 5 Q. And so when we talked about 6 drug types that are monitored, that can 7 include opioids, correct? 8 A. Yes. 9 Q. Okay. Do you know what a 10 type -- are there different types of 11 opioids, to your knowledge? 12 MS. McCLURE: Objection to 13 form. 14 THE WITNESS: I couldn't 15 tell you. 16 BY MR. PIFKO: 17 Q. Okay. Have you heard the 18 term hydrocodone? 19 A. Yes. 20 Q. Have you heard the term 21 oxycodone? 22 A. Yes. 23 Q. Are those both opioids? 24 A. I believe so.</p>	<p>Page 103</p> <p>1 Q. I made some visual aids to 2 help us do that. 3 A. Okay. 4 Q. All right. Do you see that 5 on the screen in front of you? 6 A. Yes, I do. 7 Q. It says, "Before DEA 8 enforcement action (before June 22, 9 2007)." 10 So right now I'm talking 11 about before that time period. 12 And I'm talking about the 13 system that was in place after the 14 merger. You don't know exactly when that 15 system was implemented, right? 16 MS. McCLURE: Objection to 17 form. 18 THE WITNESS: I don't know 19 exactly, no. 20 BY MR. PIFKO: 21 Q. Okay. But the merger was in 22 2001? 23 A. Yes. 24 Q. Okay. So there were</p> <p>Page 105</p>

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<p>1 something, a company's order -- a 2 customer's order history with respect to 3 certain substances would be reviewed in 4 connection with the suspicious order 5 monitoring program?</p> <p>6 MS. McCLURE: Objection to 7 form. Under what program?</p> <p>8 THE WITNESS: I guess that's 9 my question. Are you talking 10 about that period?</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Yeah, I'm talking about 13 before the DEA enforcement action. I 14 want to -- I want to understand what -- 15 all attributes of the order monitoring 16 program that existed in that time period.</p> <p>17 A. I thought I described that 18 to you.</p> <p>19 Q. Okay. Well, so I was asking 20 a follow-up question, so --</p> <p>21 A. Okay. I'm sorry. You lost 22 me a little bit.</p> <p>23 Q. That's okay. We'll start 24 over.</p>	<p>1 correct?</p> <p>2 A. Yeah. I think it looked at 3 a three-month rolling average or 4 something like that. I believe it was 5 that.</p> <p>6 Q. Okay.</p> <p>7 MS. McCLURE: Mark, can we 8 just clarify. You are talking 9 about 2002 to 2007? Is that an 10 accurate statement of the time 11 period that you're addressing?</p> <p>12 MR. PIFKO: Well, he doesn't 13 know when the -- between --</p> <p>14 MS. McCLURE: Is that 15 document under the Elmo visible on 16 the video camera?</p> <p>17 Thank you.</p> <p>18 MR. PIFKO: You can read my 19 writing.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Okay. So we are talking 22 about post-AmerisourceBergen Corporation 23 merger but before the enforcement action.</p> <p>24 Everybody clear on the time</p>
<p>1 How does -- how does an 2 order get considered for inclusion in 3 this report that we talked about?</p> <p>4 Actually let me just back up for a better 5 record.</p> <p>6 A. Okay.</p> <p>7 Q. You -- you testified that 8 there's a report that would be submitted 9 to DEA. You said you didn't know if it 10 was daily, weekly or monthly.</p> <p>11 A. I can't remember.</p> <p>12 Q. Okay. But there is some 13 kind of report that identified certain 14 types of orders and -- and was sent to 15 DEA, correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Okay. And then we are 18 talking about the process for how an 19 order is included in that report. Okay?</p> <p>20 A. I understand. Yeah.</p> <p>21 Q. Okay. So you said that the 22 company looks at whether the order is 23 over some percentage of the customer's 24 prior order over that month. Is that</p>	<p>1 period here?</p> <p>2 A. Right.</p> <p>3 Q. All right. So an order that 4 exceeds some percentage of the customer's 5 order history over the prior three 6 months. You don't know the percentage.</p> <p>7 But that order gets included in this 8 report to the DEA, correct?</p> <p>9 A. That's my understanding.</p> <p>10 Q. And when we talk about 11 exceeding a percentage, a percentage 12 of -- of what? That's what I'm -- that's 13 what we were talking about earlier.</p> <p>14 A. My understanding, it was -- 15 it's a percentage above their average 16 purchase of that drug over the 17 three-month period.</p> <p>18 Q. Okay. And so like there's 19 different drugs, right? Like --</p> <p>20 A. Mm-hmm.</p> <p>21 Q. -- OxyContin is a drug.</p> <p>22 Duragesic is a drug.</p> <p>23 A. That's correct.</p> <p>24 Q. Is it your understanding</p>

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<p>1 that the -- in that program the actual 2 purchase of that drug over the 3 three-month period was measured or it was 4 just within a drug family?</p> <p>5 A. I think it was a specific 6 drug.</p> <p>7 Q. Okay.</p> <p>8 A. I believe.</p> <p>9 Q. Okay. And then if it 10 exceeded some percentage, it would get 11 included in this report to the DEA, 12 correct?</p> <p>13 A. That's my understanding.</p> <p>14 Q. Do you know if there was any 15 documentation other than the report to 16 the DEA --</p> <p>17 MS. McCLURE: Objection.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. -- about an order that was 20 included in this report?</p> <p>21 MS. McCLURE: Objection to 22 form.</p> <p>23 THE WITNESS: I don't think 24 so.</p>	<p>1 THE WITNESS: I don't -- I 2 don't know for sure.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. If there was any due 5 diligence, do you know if there would 6 have been any documentation of any due 7 diligence that would have been conducted?</p> <p>8 MS. McCLURE: Objection.</p> <p>9 Form.</p> <p>10 THE WITNESS: I don't recall 11 exactly when, you know, we did due 12 diligence investigations, but they 13 would have been documented if we 14 did any.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. Okay. So if --</p> <p>17 A. If and when we did any.</p> <p>18 Q. -- if any due diligence -- 19 okay. So if any due diligence 20 investigation was conducted, it would 21 have been documented, correct?</p> <p>22 A. Yes. That's my 23 understanding.</p> <p>24 Q. And do you have an</p>
<p>1 BY MR. PIFKO:</p> <p>2 Q. If an order exceeded the 3 percentage that you talked about, do you 4 know if there was any due diligence 5 conducted on that order?</p> <p>6 A. When we're talk --</p> <p>7 MS. McCLURE: Objection.</p> <p>8 You may answer.</p> <p>9 THE WITNESS: When we are 10 talking about this DEA approved 11 program that was in place in 2002 12 to --</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. I'm talking about this --</p> <p>15 A. Okay.</p> <p>16 Q. -- period that's on the 17 slide in front of you.</p> <p>18 A. Then what's the question 19 again? I'm sorry.</p> <p>20 Q. If an order exceeded the 21 percentage that you talked about, do you 22 know if there was any due diligence 23 conducted on that order?</p> <p>24 MS. McCLURE: Objection.</p>	<p>1 understanding about the company's 2 practice of maintaining any such files?</p> <p>3 MS. McCLURE: Objection to 4 form.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. What's your understanding of 8 what the company's practice is?</p> <p>9 A. We had a system we used 10 called Law Track that we would document 11 any -- any material work that we did in 12 Law Track. So that's where it would have 13 been documented.</p> <p>14 Q. How long was that system in 15 place?</p> <p>16 A. I don't recall. I think it 17 was in place during that period, some 18 time in that period between 2002-2007.</p> <p>19 Q. Do you think it was in place 20 the entire time?</p> <p>21 A. Couldn't tell you.</p> <p>22 Q. Okay. Do you know how long 23 the company retained its records in Law 24 Track?</p>

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<p>1 A. Depends on the record.</p> <p>2 We -- we complied with the corporate</p> <p>3 record retention policy. So it depends</p> <p>4 on what records they are.</p> <p>5 Q. And that's a written policy</p> <p>6 somewhere?</p> <p>7 A. There's a -- there's a</p> <p>8 record retention policy in writing, yes.</p> <p>9 Q. Okay. And you -- sitting</p> <p>10 here today, you don't know what that is?</p> <p>11 A. I couldn't tell you</p> <p>12 specifics about every record -- every</p> <p>13 type record.</p> <p>14 Q. Okay. Well, right now I'm</p> <p>15 talking about due diligence during the</p> <p>16 time period that's on the slide in here.</p> <p>17 Do you know what their record retention</p> <p>18 policy was for that?</p> <p>19 A. I don't.</p> <p>20 Q. Okay. Do you know who David</p> <p>21 May is?</p> <p>22 A. Yes, I do.</p> <p>23 Q. I'll represent to you that</p> <p>24 he testified, it's on the slide, but I'll</p>	<p>1 him, and I asked him if he</p> <p>2 heard -- did you hear --</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. Did you hear me read the</p> <p>5 testimony, sir?</p> <p>6 MS. McCLURE: And I'm going</p> <p>7 to put my objection on the record,</p> <p>8 so please let me do that before</p> <p>9 you answer. Thank you.</p> <p>10 You've excerpted deposition</p> <p>11 testimony of David May. You have</p> <p>12 excerpted eight lines of testimony</p> <p>13 with absolutely zero context as to</p> <p>14 what the question was, as to the</p> <p>15 time period, as to what this</p> <p>16 testimony is regarding.</p> <p>17 There is absolutely zero</p> <p>18 information in here that allows</p> <p>19 him to discern what this is about.</p> <p>20 So if you would like to</p> <p>21 continue down this line of</p> <p>22 questioning, you are free to do</p> <p>23 so.</p> <p>24 MR. PIFKO: You can object,</p>
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1 just read it for you.

2 He testified: "Under our

3 program and our policy and our

4 understanding of the regulation, and what

5 the regulator expects from us, is when we

6 declare an order as suspicious, it's

7 permanently rejected and never shipped."

8 Have you heard that?

9 MS. McCLURE: Mark, I'm

10 going to ask the witness to step

11 out for a moment.

12 MR. PIFKO: You can't just

13 interrupt the deposition.

14 MS. McCLURE: Or you and I

15 can step out, but I -- I'm happy

16 to --

17 MR. PIFKO: I'm going to ask

18 him -- I'm going to ask him my

19 questions.

20 MS. McCLURE: Okay. So

21 you're -- you've shown for the

22 record -- you've shown --

23 MR. PIFKO: I've -- I asked

24 him -- I read some testimony to

1 but you can't coach the witness

2 and inject --

3 MS. McCLURE: That's why I

4 asked you to step out or him to

5 step out.

6 MR. PIFKO: Well, there's

7 nothing we need to step out and

8 discuss. I'm asking him -- okay.

9 I just --

10 MS. McCLURE: You continued

11 with your questioning. I was

12 willing to have the witness step

13 out to not receive a coaching

14 objection.

15 MR. PIFKO: Okay. I'm going

16 to ask him questions, and if -- if

17 there's a proper basis for you to

18 instruct him, then you can

19 instruct him.

20 But other than that, I'm

21 going to ask him questions and you

22 can -- you can state objections.

23 Of course, you're entitled to do

24 that, but you can't coach the

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<p>1 witness. All you can do, if you 2 want to say -- I'm not going to 3 tell you what your objection can 4 be, but you can make a valid 5 objection, and that's the end of 6 it.</p> <p>7 All right.</p> <p>8 MS. McCLURE: So I'm going 9 to --</p> <p>10 MR. PIFKO: So you just made 11 an objection. What -- you're not 12 copying here.</p> <p>13 MS. McCLURE: -- make my 14 objection up on the record, of 15 having a continuing objection to 16 any questioning --</p> <p>17 MR. PIFKO: Continuing, 18 okay. Got it.</p> <p>19 MS. McCLURE: -- regarding 20 anything that's on this document, 21 on any line here.</p> <p>22 MR. PIFKO: All right.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. All I'm asking you is --</p>	<p>1 said, yes.</p> <p>2 Q. Okay.</p> <p>3 MS. McCLURE: And I'm going 4 to note my continuing objection.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. Do you have an understanding 7 that if an order is identified as 8 suspicious, that it cannot be shipped?</p> <p>9 MS. McCLURE: Objection to 10 form.</p> <p>11 THE WITNESS: It depends on 12 what time frame you are relating 13 to and what you're referencing.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Okay. Why does it depend on 16 what time frame I'm referencing?</p> <p>17 A. Because DEA has changed 18 their policy over the years.</p> <p>19 Q. It's your understanding that 20 the DEA has changed its policy about 21 whether you can ship a suspicious order?</p> <p>22 A. It's -- that's my 23 understanding. They've changed their 24 belief.</p>
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<p>1 okay. Do you know who David May is?</p> <p>2 A. Yes, I do.</p> <p>3 Q. Who is David May?</p> <p>4 A. He is our VP of diversion 5 control.</p> <p>6 Q. Okay. He is the head of the 7 diversion control program, correct?</p> <p>8 A. That's correct.</p> <p>9 Q. And he worked at the DEA for 10 over 30 years, correct?</p> <p>11 A. I don't know the time frame.</p> <p>12 Q. Okay. But you know he had a 13 long history with the DEA, correct?</p> <p>14 A. That's my understanding.</p> <p>15 Q. Okay. And I'm telling you, 16 he testified, and I'm quoting: "Under 17 our program and our policy and our 18 understanding of the regulation, and what 19 the regulator expects from us, is when we 20 declare an order as suspicious, it's 21 permanently rejected and never shipped."</p> <p>22 Okay. Do you -- do you hear 23 that?</p> <p>24 A. I heard -- I heard what you</p>	<p>1 Q. I'll show you some more 2 testimony.</p> <p>3 Mr. Zimmerman testified: 4 "CSA was passed in 1970, and the" -- "the 5 federal regulations that regulate our 6 responsibilities have not changed."</p> <p>7 Mr. May testified: "I'm not 8 familiar with any changes in the 9 Controlled Substance Act."</p> <p>10 MS. McCLURE: So.</p> <p>11 MR. PIFKO: I haven't asked 12 him a question. You can't just 13 object.</p> <p>14 MS. McCLURE: You're 15 putting -- you are simply just 16 putting documents up on the Elmo 17 and making representations 18 regarding what testimony was.</p> <p>19 MR. PIFKO: Obviously my 20 representations are correct, 21 because they're quotes and I'm 22 showing --</p> <p>23 MS. McCLURE: You've 24 represented that they're quotes.</p>

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<p>1 I'm sure that you would in fact 2 put quotes on the document. So 3 I'm not questioning that, although 4 of course I don't have the ability 5 to independently verify.</p> <p>6 MR. PIFKO: Okay. I haven't 7 even asked him a question. So you 8 need to let me ask my questions.</p> <p>9 MS. McCLURE: Mark, I'm 10 trying --</p> <p>11 MR. PIFKO: You're 12 interrupting the deposition.</p> <p>13 MS. McCLURE: You want the 14 witness to leave?</p> <p>15 MR. PIFKO: You're 16 interrupting the question. If you 17 take him out, you're coaching him 18 and that's completely improper.</p> <p>19 MS. McCLURE: No, I said do 20 you want the witness to leave? 21 I'm happy to take him out. I'm 22 not coaching him.</p> <p>23 MR. PIFKO: No. I would 24 like to ask -- you're interrupting</p>	<p>1 representing answers up on the 2 screen. We don't even know what 3 the answer to the question was.</p> <p>4 MR. PIFKO: It doesn't 5 matter. You don't even know what 6 my question is.</p> <p>7 MS. McCLURE: Okay. So I'm 8 going to make my --</p> <p>9 MR. PIFKO: Okay. So let me 10 ask the question.</p> <p>11 MS. McCLURE: -- continuing 12 objection --</p> <p>13 MR. PIFKO: Okay, continuing 14 objection all you want.</p> <p>15 MS. McCLURE: -- to this 16 entire line of questioning and you 17 presenting the witness with 18 deposition testimony that is 19 absolutely without context as to 20 time period, what the witness's 21 capacity was in --</p> <p>22 MR. PIFKO: Okay. You're 23 coaching him by talking about time 24 period and things like that.</p>
<p>1 my ability to ask questions.</p> <p>2 MS. McCLURE: Well, I'm 3 going to continue --</p> <p>4 MR. PIFKO: I haven't asked 5 the question. All I did was tell 6 him what other people testified 7 to.</p> <p>8 MS. McCLURE: You 9 represented what other people 10 testified to and that's --</p> <p>11 MR. PIFKO: It's accurate 12 and true representation. I'm 13 allowed to do that.</p> <p>14 MS. McCLURE: Mark --</p> <p>15 MR. PIFKO: I could say do 16 you think that David May testified 17 that his favorite color was blue.</p> <p>18 MS. McCLURE: Mark --</p> <p>19 MR. PIFKO: Okay.</p> <p>20 MS. McCLURE: You are 21 representing --</p> <p>22 MR. PIFKO: I haven't asked 23 a question.</p> <p>24 MS. McCLURE: You are</p>	<p>1 MS. McCLURE: I've offered 2 him --</p> <p>3 MR. PIFKO: You're telling 4 him what to say. You're offering 5 him guidance.</p> <p>6 MS. McCLURE: -- that he 7 could leave, and you haven't taken 8 me up on that, so you're putting 9 me in a position and forcing me to 10 document my objection on the 11 record.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. Okay. So I'm showing you 14 again sir, Mr. Zimmerman -- you know who 15 he is. He was your boss.</p> <p>16 He testified, "The CSA was 17 passed in 1970 and the federal 18 regulations that regulate our 19 responsibilities have not changed."</p> <p>20 And Mr. May testified, "I'm 21 not familiar with any changes in the 22 Controlled Substance Act."</p> <p>23 I asked you if you 24 understood that if an order is identified</p>

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<p>1 as suspicious, if it can be shipped. And 2 you said it depends on the time period, 3 correct?</p> <p>4 A. Okay. The regulations don't 5 specify anything about shipping or not 6 shipping suspicious orders.</p> <p>7 Q. What's the basis for your 8 understanding?</p> <p>9 A. The regulation states that 10 we have to design and operate a program 11 to detect suspicious orders. As I 12 recall, that regulation mentions nothing 13 about whether they should be shipped or 14 not.</p> <p>15 Q. Okay. So do you disagree 16 with Mr. May's testimony?</p> <p>17 MS. McCLURE: Objection, 18 form. Objection, misstates 19 testimony.</p> <p>20 THE WITNESS: Again, it has 21 to be in context of the time frame 22 that he's talking about.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Okay. Do you agree with the</p>	<p>1 form. You can answer.</p> <p>2 THE WITNESS: That's our 3 policy today.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. I'm not asking what your 6 policy is. I'm asking what your 7 understanding of the regulations are.</p> <p>8 A. The regulation is we are to 9 designed and operate a system to detect 10 suspicious orders and report them.</p> <p>11 Q. Okay. So is it your 12 testimony that -- okay. But is there 13 some period earlier where you believe an 14 order that was identified as suspicious 15 could be shipped?</p> <p>16 MS. McCLURE: Objection to 17 form.</p> <p>18 You may answer.</p> <p>19 THE WITNESS: I don't know 20 the exact dates of when that 21 changed.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. But you believe that there 24 was some date upon which it was changed?</p>
<p>1 statements I showed you for Mr. Zimmerman 2 and Mr. May, that the Controlled 3 Substance Act, the law and the 4 regulations have not changed since 1970?</p> <p>5 MS. McCLURE: Continuing to 6 this line of questioning.</p> <p>7 Objection to form. Objection, 8 misstates testimony.</p> <p>9 THE WITNESS: Well I 10 disagree with both, because one -- 11 one was about regulations, and one 12 was about the Act itself. And I 13 know the regulations have 14 changed -- changed several times 15 over the years.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Okay. And so do you believe 18 there's been a change -- well, let me ask 19 you a different question.</p> <p>20 Is it your understanding 21 that today, an order that's identified as 22 suspicious, cannot be shipped?</p> <p>23 A. Today?</p> <p>24 MS. McCLURE: Objection to</p>	<p>1 A. The policy of DEA changed 2 about suspicious orders.</p> <p>3 Q. And whether you could ship 4 them?</p> <p>5 A. I know as of 2007 we were 6 told not to ship.</p> <p>7 Q. Okay. Do you believe that 8 there was any period prior to 2007 where 9 you couldn't ship a suspicious order?</p> <p>10 A. Not that I know of.</p> <p>11 Q. Okay. And do you know what 12 communication was from the DEA that told 13 you that you couldn't ship a suspicious 14 order?</p> <p>15 A. I believe that was part of 16 our negotiations in the settlement, part 17 of the company's negotiations with DEA.</p> <p>18 Q. Okay. So let's go back to 19 this time period.</p> <p>20 In the company's program, in 21 this time period that's on the slide in 22 the post merger before the settlement.</p> <p>23 A. Okay.</p> <p>24 Q. Was it the company's</p>

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<p>1 practice to ship an order that was 2 identified as suspicious? 3 MS. McCLURE: Objection. 4 Asked and answered. You can 5 answer. 6 THE WITNESS: The company 7 didn't identify it as a suspicious 8 order. The company created a 9 report and sent it to DEA of 10 possible excessive orders. 11 BY MR. PIFKO: 12 Q. Okay. And was it the 13 company's practice to ship all those 14 orders that were identified as 15 suspicious? 16 MS. McCLURE: Same 17 objection. 18 BY MR. PIFKO: 19 Q. Or sorry, excessive. 20 A. In most cases they were 21 shipped. 22 Q. Okay. If an order was not 23 shipped, would that have been documented? 24 A. At that time, probably not.</p>	<p>1 that it exceeded the customer's prior 2 three months' ordering history, would 3 that be unusual? 4 MS. McCLURE: Objection to 5 form. 6 THE WITNESS: Could be. 7 BY MR. PIFKO: 8 Q. So an order that was 9 excessive can be suspicious, correct? 10 A. Could be. 11 Q. Is there anything that would 12 make an order that's excessive not 13 suspicious? 14 MS. McCLURE: Objection to 15 form. 16 THE WITNESS: Yes. 17 BY MR. PIFKO: 18 Q. What would that be? 19 A. It could be an ordering 20 error of some sort. 21 Q. Anything else? 22 A. There's a lot of reasons. 23 The pharmacy could have been robbed and 24 all of their drugs taken and, you know,</p>
<p>1 Q. Probably not? 2 A. Other than the system 3 itself. The invoice would have reflected 4 the product wasn't shipped. 5 Q. What's the difference 6 between an excessive order and a 7 suspicious order? 8 A. A possible excessive order 9 would have been an order that would have 10 exceeded those parameters that were built 11 into the system to produce those reports. 12 Q. Okay. What's a suspicious 13 order? 14 A. Anything that met those 15 guidelines and the regulation that could 16 be a suspicious order. 17 Q. Do you know what those 18 guidelines are? 19 A. I couldn't recite it word 20 for word, but you know, unusual quantity, 21 size, frequency. I can't remember the 22 rest of it. I don't know the regulation. 23 I can't recite it word for word. 24 Q. If an order was excessive in</p>	<p>1 they are ordering an unusually large 2 quantity. 3 Q. Anything else? 4 A. Nope. Can't think of 5 anything right off the top of my head. 6 Q. Did the company in this time 7 period again on the slide, undertake any 8 effort to investigate an order that was 9 identified as excessive? 10 A. Yes. Somewhere after the 11 August of 2005 time frame we started 12 doing some additional due diligence. 13 Q. And what -- 14 A. On customers and orders. 15 Q. Okay. What was the nature 16 of that due diligence? 17 A. We started using a 18 questionnaire for customers and site 19 visits. 20 Q. Okay. How about with 21 respect to a specific order though? Was 22 there any due diligence that was 23 conducted with respect to a specific 24 order?</p>

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<p>1 MS. McCLURE: Objection to 2 form.</p> <p>3 THE WITNESS: There was, 4 yeah. Those reports would be 5 reviewed and we would do some 6 additional due diligence based on 7 some of those orders, those 8 reports.</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. What reports?</p> <p>11 A. The reports that we've been 12 talking about.</p> <p>13 Q. The excessive order reports?</p> <p>14 A. Yeah, the excessive order 15 reports.</p> <p>16 Q. Okay. And what was the 17 nature of the due diligence that was 18 conducted?</p> <p>19 A. Again, we would do -- we 20 would send out a questionnaire, and we 21 would have -- actually have the 22 salesperson go in, visit the site, and 23 have the questionnaire filled out. I 24 believe it was signed by the salesperson</p>	<p>1 A. The DEA enforcement action 2 wasn't in June 2007.</p> <p>3 Q. When was that?</p> <p>4 A. I think the action was 5 April, probably.</p> <p>6 Q. Okay.</p> <p>7 A. Yeah. That was the date of 8 the settlement.</p> <p>9 Q. Okay. Right. The company 10 changed its practices in connection with 11 the settlement, correct?</p> <p>12 MS. McCLURE: Objection. 13 Form.</p> <p>14 THE WITNESS: We changed 15 some practices after the 16 August 2005 period and then 17 changed them more after the 18 enforcement action.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. Okay. Right. So that's why 21 I'm book-ending this particular time 22 period.</p> <p>23 A. Okay.</p> <p>24 Q. So the questions that you</p>
<p>1 and the customer.</p> <p>2 Q. What was in the 3 questionnaire?</p> <p>4 A. Questions that we were 5 provided by DEA that they suggested that 6 we ask to customers.</p> <p>7 Q. Do you remember any of the 8 types of questions?</p> <p>9 A. There were 10 or 12 -- 10 or 10 12 questions. All related to internet 11 pharmacy, to ensuring that a pharmacy 12 wasn't engaged in that internet activity.</p> <p>13 Q. Okay. And when did that 14 start?</p> <p>15 A. I would say late 2005.</p> <p>16 Sometime after August.</p> <p>17 Q. I want to be clear that we 18 are talking about the right time period. 19 So I just wrote down what we talked about 20 there.</p> <p>21 Okay. So we're talking 22 about this time period after August of 23 2005 but before the DEA enforcement 24 action. Okay?</p>	<p>1 asked of pharmacies were designed to 2 determine whether a pharmacy was an 3 internet pharmacy?</p> <p>4 A. Yes.</p> <p>5 Q. Did they ask any other types 6 of information?</p> <p>7 A. When you say they, who are 8 you talking of?</p> <p>9 Q. The questionnaire.</p> <p>10 A. I -- I don't remember the 11 specific questions at the time.</p> <p>12 Q. Okay. So we got on this 13 track because what I was asking was how 14 you determined whether an order that's 15 excessive is -- is suspicious and whether 16 there was any investigation or due 17 diligence that would have been conducted 18 on an order that was excessive. Okay?</p> <p>19 A. Okay.</p> <p>20 Q. So you testified that after 21 August 2005 there were questions that 22 were asked.</p> <p>23 A. Mm-hmm.</p> <p>24 Q. Were there -- those</p>

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<p>1 questions appear to be, as you're 2 testifying, just designed to determine if 3 something is an internet pharmacy, 4 correct?</p> <p>5 MS. McCLURE: Objection to 6 form.</p> <p>7 THE WITNESS: I don't -- you 8 know, I don't know if it was just 9 totally all the questions were 10 totally specific to internet 11 pharmacy. There may have been 12 other questions just to -- to try 13 to find out what, you know, what 14 the pharmacy's practices were.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. What, in the questionnaire, 17 would tell you if an order that was in 18 the excessive order report was 19 suspicious?</p> <p>20 A. In the questions on the -- 21 that wouldn't tell us an order is 22 suspicious or not.</p> <p>23 Q. Okay. What investigation, 24 if any, did you conduct on an excessive</p>	<p>1 page? Okay?</p> <p>2 A. An order that's generated on 3 that report.</p> <p>4 Q. Right.</p> <p>5 A. Yes. Okay. It could be any 6 controlled substance.</p> <p>7 Q. Okay. In order to -- I'm 8 asking you about types of investigations 9 that were done on those orders to 10 determine whether they were suspicious.</p> <p>11 And so you said that Eric looked at them 12 to see if they had hydrocodone 13 combination products in them. And 14 that's -- and then if they did, you would 15 do a further investigation, correct?</p> <p>16 A. Well, I think that was a 17 primary --</p> <p>18 MS. McCLURE: Objection to 19 form.</p> <p>20 THE WITNESS: I'm sorry.</p> <p>21 MS. McCLURE: That's okay.</p> <p>22 THE WITNESS: I believe that 23 was his primary focus, but he 24 would look -- he would review the</p>
<p>1 order that would tell you whether it was 2 suspicious?</p> <p>3 A. To the best of my 4 recollection and -- Eric would review 5 those monthly reports. And we would -- 6 we were looking for specifically at the 7 time the drugs that were being used a lot 8 by the internet pharmacy which was 9 typically the hydrocodone combination 10 products. And that would be the things 11 that he would look for on those reports. 12 And then he would generate an 13 investigation of that customer based on 14 reviewing those reports, as I recall.</p> <p>15 Q. Other than hydrocodone 16 combination products, was there any other 17 feature of an order that you would look 18 at to determine whether it was suspicious 19 if it was an excessive order report?</p> <p>20 A. Well, again the system, it 21 looked at all controlled substances.</p> <p>22 Q. An order is -- gets included 23 under the order monitoring program as an 24 excessive order. Are we on the same</p>	<p>1 whole report is my -- as -- as I 2 recall.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. And you are talking about 5 Eric Cherveny, to be clear?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. When did he start 8 doing that?</p> <p>9 A. Again, it was probably 10 sometime after August of 2005. I don't 11 remember the exact date that he started 12 doing that.</p> <p>13 Q. What's a hydrocodone 14 combination product?</p> <p>15 A. Again, not speaking -- 16 speaking as a layman, not a pharmacist 17 or -- or a chemist, but it's a 18 hydrocodone in combination with some 19 other noncontrolled product like 20 acetaminophen or aspirin or something 21 like that. That would be a combination 22 product.</p> <p>23 Q. And you had an understanding 24 that those products were more likely to</p>

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<p>1 be the subject of diversion?</p> <p>2 MS. McCLURE: Objection.</p> <p>3 THE WITNESS: That was our</p> <p>4 understanding, that that was the</p> <p>5 drug that was most -- most likely</p> <p>6 used by the internet pharmacy.</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. What was the basis of that</p> <p>9 understanding?</p> <p>10 A. Communications from DEA.</p> <p>11 Q. So the DEA told you that</p> <p>12 those products were of particular</p> <p>13 concern?</p> <p>14 A. Yes.</p> <p>15 Q. Prior to August 2005, was</p> <p>16 anybody looking at the excessive order</p> <p>17 reports to determine if they weren't</p> <p>18 suspicious?</p> <p>19 MS. McCLURE: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: I believe</p> <p>22 someone may have reviewed those,</p> <p>23 but they were -- they were sent to</p> <p>24 DEA.</p>	<p>1 Q. And he was the only one who</p> <p>2 was doing that?</p> <p>3 A. I believe so at that time.</p> <p>4 Q. And I want to clarify for</p> <p>5 the record. We're talking about every</p> <p>6 order that's in the excessive order</p> <p>7 report, correct?</p> <p>8 A. That he reviewed?</p> <p>9 MR. PIFKO: Yeah.</p> <p>10 MS. McCLURE: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: I believe</p> <p>13 that's correct.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. And prior to that time, an</p> <p>16 excessive order report would include an</p> <p>17 order from any customer, correct?</p> <p>18 A. That's my understanding.</p> <p>19 Q. Not just a potential</p> <p>20 internet customer, correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And you don't have any</p> <p>23 recollection of whether anyone reviewed</p> <p>24 any excessive order reports prior to</p>
<p>1 BY MR. PIFKO:</p> <p>2 Q. You -- you believe they were</p> <p>3 reviewed by someone at AmerisourceBergen?</p> <p>4 A. I don't recall.</p> <p>5 Q. So you don't know either</p> <p>6 way?</p> <p>7 A. I don't. Yeah, I don't.</p> <p>8 Q. So it's your testimony that</p> <p>9 sitting here today, you don't know if</p> <p>10 anything was done to determine that an</p> <p>11 order in the excessive order report</p> <p>12 wasn't suspicious prior to August 2005,</p> <p>13 correct?</p> <p>14 A. That's correct.</p> <p>15 Q. If there was an</p> <p>16 investigation, it would be put in the Law</p> <p>17 Track system?</p> <p>18 A. I would -- I would think so,</p> <p>19 yes.</p> <p>20 Q. And Eric Cherveny was the</p> <p>21 person who was responsible for doing</p> <p>22 that?</p> <p>23 A. After August of 2005, yes,</p> <p>24 he was doing those.</p>	<p>1 August 2005, correct?</p> <p>2 MS. McCLURE: Objection.</p> <p>3 THE WITNESS: I don't.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Do you have an understanding</p> <p>6 about -- did you ever look at any of</p> <p>7 those excessive order reports?</p> <p>8 A. Yes.</p> <p>9 Q. How often did you look at</p> <p>10 excessive order reports?</p> <p>11 A. I couldn't say. Not very</p> <p>12 often.</p> <p>13 Q. About how many orders would</p> <p>14 be included in an excessive order report,</p> <p>15 on the times when you observed them?</p> <p>16 A. I have no idea.</p> <p>17 Q. Would you say 100 orders,</p> <p>18 more than 100 orders?</p> <p>19 MS. McCLURE: Objection.</p> <p>20 Form. Asked and answered.</p> <p>21 THE WITNESS: I couldn't</p> <p>22 say.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Okay. A million orders?</p>

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<p>1 You have no idea about how many orders 2 are in an excessive order? 3 A. I doubt it's a million. 4 Q. Okay. More than -- these 5 were generated -- you don't know how 6 frequently they were generated, monthly, 7 weekly? 8 A. I believe they were monthly 9 reports -- 10 Q. Okay. 11 A. -- and they were generated 12 for each distribution center and reported 13 to DEA. 14 Q. Okay. And those were 15 maintained in the Law Track system or how 16 were those maintained? 17 MS. McCLURE: Objection. 18 Form. 19 THE WITNESS: Those reports? 20 BY MR. PIFKO: 21 Q. Yeah. 22 A. I don't know. 23 Q. About how many occasions do 24 you recall looking at the excessive order</p>	<p>1 Q. We talked earlier about the 2 duty for a registrant to prevent 3 diversion. Do you recall that? 4 A. Yes. Yes. 5 MS. McCLURE: Objection to 6 form. 7 BY MR. PIFKO: 8 Q. Do you know what diversion 9 is? 10 A. It's basically the act of 11 diverting something from wherever it was 12 intended in basic terms. 13 Q. Do you have an understanding 14 of how the company seeks to prevent 15 diversion? 16 MS. McCLURE: Objection. 17 Form. 18 THE WITNESS: We seek to 19 prevent diversion by complying 20 with the regulations. 21 BY MR. PIFKO: 22 Q. Do you understand that -- do 23 you have an understanding about why we 24 want to prevent diversion?</p>
<p>1 reports? 2 MS. McCLURE: Objection. 3 Asked and answered. 4 THE WITNESS: I don't know. 5 I just know what they look like. 6 BY MR. PIFKO: 7 Q. Let's talk about the duty to 8 prevent diversion. 9 A. Okay. 10 Q. There's a quote here from 11 the Code of Federal Regulations. 12 It says: "All applicants 13 and registrants shall provide effective 14 controls and procedures to guard against 15 theft and diversion of controlled 16 substances." 17 MS. McCLURE: To the extent 18 that that's not a full and 19 complete representation of what 20 the statute says, which I can't 21 say off the top of my head whether 22 it is or it isn't, then I object 23 to the excerpt. 24 BY MR. PIFKO:</p>	<p>1 A. Yes. 2 Q. What's your understanding 3 why we want to prevent diversion? 4 A. We want to prevent -- 5 preventing diversion prevents controlled 6 substances from getting -- getting 7 outside of the legitimate channels that 8 they're being intended for. 9 Q. And why do we want to do 10 that? Why don't we want controlled 11 substances to get outside of legitimate 12 channels? 13 A. Because we don't want people 14 that shouldn't be getting them to be 15 getting them. 16 Q. Because they can abuse them? 17 MS. McCLURE: Objection. 18 THE WITNESS: They could. 19 BY MR. PIFKO: 20 Q. And they could become 21 addicted to them? 22 A. They could. 23 MS. McCLURE: Same objection 24 to the inclusion of partial</p>

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<p>1 testimony without context from 2 other witnesses.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. David May testified: "I 5 think there's been several actions that 6 have been taken where it's becoming 7 difficult for people to receive 8 prescription opioids over time. And 9 there are a number of different reasons 10 why.</p> <p>11 "I think that people who may 12 be addicted and can no longer get a 13 prescription opioid, can that cause them 14 to go to the illegal market? I think it 15 can. Has that caused folks to do that? 16 I think it has."</p> <p>17 Do you have an understanding 18 that people can get addicted to a 19 prescription and then seek those pills 20 through the illegal market?</p> <p>21 MS. McCLURE: Continuing 22 objection to this line with this 23 witness's testimony up on the 24 screen.</p>	<p>1 Q. You do? 2 A. I agree that they could. 3 Q. Did the DEA tell you at any 4 point about the propensity of people to 5 get prescription opioids and then turn to 6 the illegal market? 7 A. I don't recall that 8 specifically, no. 9 Q. I'm going to hand you an 10 exhibit that was produced to us a couple 11 of days ago. 12 MR. PIFKO: Just a minute. 13 My colleague is getting that for 14 you. 15 (Document marked for 16 identification as Exhibit 17 ABDC-Mays-1.) 18 BY MR. PIFKO: 19 Q. I'm handing you what's 20 marked as Exhibit 1. It's a document 21 that's Bates-labeled ABDCMDL00315887 22 through -- I have the copy in front of me 23 that was e-mailed that doesn't have the 24 Bates number. My colleague is getting</p>
<p>1 THE WITNESS: Can you repeat 2 the question? And I don't really 3 know what the question was that 4 prompted his answer. So it's kind 5 of difficult for me to --</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. That's okay. I'm just 8 asking you --</p> <p>9 A. -- to comment on what he's 10 stating.</p> <p>11 Q. I'm not asking you to 12 comment on what he's stating.</p> <p>13 A. Okay.</p> <p>14 Q. I'm just asking you if you 15 agree that someone can start with a 16 prescription opioid and then become 17 addicted and then seek to fill their need 18 of their addiction through illegal 19 channels?</p> <p>20 MS. McCLURE: Objection. 21 Form.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. Do you agree with that? 24 A. I do.</p>	<p>1 the last Bates numbers. While he's doing 2 that, please take a moment to review this 3 document. 4 A. Okay. 5 Q. ABDCMDL00315887 through 6 315900. 7 Let me know when you're done 8 reviewing it. 9 A. Okay. 10 Q. You're done reviewing it? 11 A. Mm-hmm. Yes, sir. 12 Q. Okay. Have you seen that 13 document before? 14 A. I believe so. 15 Q. Can you tell me what it is? 16 A. It looks like a slide 17 presentation that was given to me in 18 August of 2005 the DEA had forwarded. 19 Q. Is your name on here? 20 A. I don't think so. 21 Q. You said -- I just said 22 that, because you said it was given to 23 you. 24 Do you recall being --</p>

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<p>1 participating in this meeting?</p> <p>2 A. Yes. I represented</p> <p>3 AmerisourceBergen in that meeting.</p> <p>4 Q. Okay. Who was at this</p> <p>5 meeting besides you?</p> <p>6 A. It was only myself and Mike</p> <p>7 Mapes from DEA. And I don't recall the</p> <p>8 gentleman's name, but I think he was</p> <p>9 their chief counsel.</p> <p>10 Q. If you go to the last --</p> <p>11 A. He was an attorney.</p> <p>12 Q. -- the last page.</p> <p>13 A. Mm-hmm.</p> <p>14 Q. It's got Mike Mapes, and</p> <p>15 it's got Kyle Wright. Is Kyle the other</p> <p>16 person that was there?</p> <p>17 A. No.</p> <p>18 Q. Okay.</p> <p>19 A. I don't think Kyle --</p> <p>20 Q. It was someone other than</p> <p>21 Kyle?</p> <p>22 A. I don't think Kyle was in</p> <p>23 the room.</p> <p>24 Q. Okay. You don't remember</p>	<p>1 Q. You and anybody else</p> <p>2 meeting --</p> <p>3 A. -- or are you talking</p> <p>4 about --</p> <p>5 Q. -- with the DEA in an</p> <p>6 official capacity --</p> <p>7 A. They --</p> <p>8 MS. McCLURE: Let him</p> <p>9 finish.</p> <p>10 THE WITNESS: Sorry.</p> <p>11 MS. McCLURE: Let him</p> <p>12 finish, and then you can talk.</p> <p>13 Otherwise she has trouble getting</p> <p>14 it all down.</p> <p>15 THE WITNESS: I'm sorry.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Okay. So my question is,</p> <p>18 prior to this meeting with DEA in</p> <p>19 August 10, 2005, if you had met with them</p> <p>20 in an official capacity before then.</p> <p>21 A. Not other than that</p> <p>22 situation I told you about. I may have</p> <p>23 met with them -- anytime we had an</p> <p>24 informal hearing or something like that,</p>
<p>1 the other person's name?</p> <p>2 A. No, I don't. He was an</p> <p>3 older gentleman, and he was an attorney.</p> <p>4 But I don't remember his exact title. He</p> <p>5 was an attorney with DEA.</p> <p>6 Q. Was this the first time that</p> <p>7 you met with the DEA as a representative</p> <p>8 of AmerisourceBergen Corporation?</p> <p>9 A. No, I'm sure I met with DEA</p> <p>10 in the past before that.</p> <p>11 Q. What were other types of</p> <p>12 occasions where you would have met with</p> <p>13 DEA?</p> <p>14 A. I remember when I was in</p> <p>15 Chattanooga meeting with them in</p> <p>16 Nashville related to the -- some concerns</p> <p>17 they had following an inspection, I</p> <p>18 believe.</p> <p>19 Q. That was back in the '70s?</p> <p>20 A. Yeah. Yeah. '70s, early</p> <p>21 '80s, maybe.</p> <p>22 Q. Okay. How about more</p> <p>23 recently, but prior to this meeting?</p> <p>24 A. Just me meeting with DEA --</p>	<p>1 and I can't remember if it was before</p> <p>2 that. I went to an informal hearing in</p> <p>3 Atlanta, based on the Atlanta DC. They</p> <p>4 had concerns about order forms during an</p> <p>5 inspection. Again, the previous one in</p> <p>6 Nashville. Other than that not in an</p> <p>7 official capacity that I can recall.</p> <p>8 Q. When was the Atlanta meeting</p> <p>9 that you can recall?</p> <p>10 A. I don't remember. It was</p> <p>11 probably early 2000s, something like</p> <p>12 that.</p> <p>13 Q. So this specific meeting,</p> <p>14 how did it come about, did someone call</p> <p>15 you up and say --</p> <p>16 A. This one?</p> <p>17 Q. Yeah.</p> <p>18 A. What prompted the meeting?</p> <p>19 Q. Yeah.</p> <p>20 A. Kyle Wright approached me at</p> <p>21 an H -- I believe it was an HDA</p> <p>22 conference and asked me if I would come</p> <p>23 and meet with them. And I said sure.</p> <p>24 Q. When was that conference?</p>

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1	A. It must have been earlier in	1 MS. McCLURE: Objection to
2	2005.	2 form. You can answer.
3	Q. Did he tell you what he	3 THE WITNESS: -- at the
4	wanted to meet about?	4 conference. It's an annual
5	A. I don't recall specifically.	5 conference, and often DEA is
6	He just asked if we would come and meet	6 invited to attend and present.
7	with them.	7 And I don't know how he
8	Q. Okay. And so were you	8 found out who I was, or how he
9	concerned about why he was asking you to	9 approached me. But he -- he was
10	meet with him?	10 waiting outside of one of the
11	A. No. He didn't say anything	11 sessions I was in and approached
12	to me that concerned me about the	12 me when I walked out.
13	meeting. That's why I went by myself.	13 BY MR. PIFKO:
14	Q. So you went to DEA	14 Q. Okay. And you had never met
15	headquarters for this meeting?	15 him before?
16	A. That's correct.	16 A. Never met him before.
17	Q. And then they gave you this	17 Q. And he just introduced
18	slide presentation?	18 himself and said hi, I'm from the DEA, I
19	A. I think they just gave me	19 would like you to come to a meeting?
20	the printed slides in a binder.	20 A. Yeah. It was a very
21	Q. Okay. And --	21 friendly exchange.
22	A. And discussed them.	22 Q. Okay. So then you go to
23	Q. Okay. Did you discuss the	23 this meeting. You said it's about an
24	slides in the meeting?	24 hour and a half?
	Page 159	Page 161
1	A. I believe so.	1 A. No, I said it was about an
2	Q. How long was the meeting?	2 hour or less.
3	A. It wasn't real long. Maybe,	3 Q. Oh okay. And you just
4	maybe an hour. Maybe less.	4 flipped through the slides with them?
5	Q. So the first slide on the	5 MS. McCLURE: Objection.
6	document is internet pharmacy data. Do	6 THE WITNESS: I don't
7	you see that?	7 recall. I just remember they gave
8	A. Yes.	8 me a binder.
9	Q. Was the meeting focused on	9 BY MR. PIFKO:
10	specifically internet pharmacies?	10 Q. This document has two slides
11	A. Yes.	11 per page. But going to the second page,
12	Q. When you saw Mike Mapes at	12 third slide --
13	an had meeting, how -- and he invited you	13 A. Okay.
14	to this meeting -- did I get that right?	14 Q. -- it says "Issues to
15	MS. McCLURE: Objection to	15 Consider."
16	form.	16 Do you see that?
17	THE WITNESS: That's	17 A. Yes.
18	incorrect. It was Kyle Wright.	18 Q. What are these -- do you
19	BY MR. PIFKO:	19 have an understanding of what these
20	Q. Oh, sorry. Okay. Kyle, how	20 issues to consider are for?
21	did he know to approach you to request a	21 A. Yeah. My understanding was
22	meeting with AmerisourceBergen?	22 issues to consider in identifying -- it
23	A. I don't know. I guess he --	23 was related to internet pharmacy, things
24	he was --	24 to look at, things to take into

<p style="text-align: right;">Page 162</p> <p>1 consideration when reviewing a pharmacy. 2 Q. And did you understand -- 3 let's go back to the first slide. 4 A. Okay. 5 Q. There's a slide that says 6 "Internet Pharmacies." 7 A. Mm-hmm. 8 Q. Do you see that? 9 A. Mm-hmm, yes. 10 Q. And it talks about some 11 attributes of an internet pharmacy. 12 A. Correct. 13 Q. Do -- do you have an 14 understanding about why the DEA was 15 concerned about internet pharmacies? 16 A. Yes. 17 Q. What -- what was your 18 understanding? 19 A. Well, my -- my understanding 20 from this meeting was that it was 21 becoming a big problem. 22 Q. How so? 23 A. Because people were able to 24 purchase specifically hydrocodone</p>	<p style="text-align: right;">Page 164</p> <p>1 else was involved in the discussion. 2 Q. Was it as a result of this 3 meeting that you implemented the process 4 where Eric Cherveny would look for 5 hydrocodone combination products in the 6 excessive order reports? 7 A. Yes. 8 Q. Did you talk about this 9 meeting with Eric Cherveny? 10 A. I don't remember talking to 11 him specifically about this meeting. But 12 that's when we put those procedures in 13 place. 14 Q. Did you implement any other 15 procedures as a result of this meeting? 16 A. Not that I -- not other than 17 previously stated. 18 Q. The only procedure I'm -- 19 for clarity of the record, that I'm aware 20 of, is looking for hydrocodone products 21 in the excessive order reports. Were 22 there any other procedures that you 23 implemented as a result of this meeting? 24 MS. McCLURE: Objection to</p>
<p style="text-align: right;">Page 163</p> <p>1 combination products and -- and other 2 drugs over the internet just based on a 3 questionnaire and not seeing a doctor. 4 Q. Were you aware of this 5 concern about internet pharmacies prior 6 to this August 10th meeting, 2005 meeting 7 with the DEA? 8 A. I don't -- I think this was 9 the first time that it was brought to my 10 attention, that it was a problem. 11 Q. You don't recall ever 12 discussing concerns about internet 13 pharmacies within AmerisourceBergen prior 14 to this time? 15 A. No, I don't. 16 Q. After attending this 17 meeting, did you discuss the nature of 18 these slides and the discussion with the 19 DEA with anyone at AmerisourceBergen? 20 A. Yes. 21 Q. Who did you discuss it with? 22 A. My boss, Chris Zimmerman. 23 Q. Anyone else? 24 A. I can't remember if anyone</p>	<p style="text-align: right;">Page 165</p> <p>1 form. 2 THE WITNESS: The -- the 3 enhanced due diligence. 4 BY MR. PIFKO: 5 Q. What specifically -- 6 A. Of customers. 7 Q. And what specifically was 8 that? 9 A. The questionnaire and the 10 site visit. 11 Q. Okay. The questionnaire 12 that we talked about earlier that you -- 13 you would occasionally send these 14 questionnaires to customers after 15 August 2005, is that correct? 16 A. That's my -- that's my 17 understanding and my recollection. 18 Q. And the purpose of that 19 questionnaire was to try to learn about 20 whether a pharmacy might be engaging in 21 internet pharmacy conduct? 22 MS. McCLURE: Objection to 23 form. 24 THE WITNESS: That was the</p>

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<p>1 primary focus. 2 Sorry. 3 BY MR. PIFKO: 4 Q. There's a bunch of court 5 cases discussed in here. Supreme Court 6 case on the third page, and then there's 7 a pharmacy mentioned here with a cite to 8 the Federal Register. Another pharmacy 9 and a Federal Register cite. Another 10 Supreme Court case. Do you recall 11 what -- what they told you when you were 12 looking at these court cases and Federal 13 Register cites? 14 A. No, I do not. 15 Q. Sitting here today, do you 16 understand what the significance of these 17 court cases, two court cases and the two 18 pharmacies, why they are included here? 19 MS. McCLURE: Objection to 20 the form. 21 THE WITNESS: I don't 22 recall -- I don't remember these 23 cases or specifics of them. 24 BY MR. PIFKO:</p>	<p>1 Q. Did you give one to Chris 2 Zimmerman? 3 A. I couldn't -- I don't 4 remember specifically who I gave them to. 5 Q. You think you gave them to 6 somebody? 7 A. I'm sure I did. 8 Q. Let's go to Page 7 of the 9 document. 10 A. Okay. 11 Q. It talks about suspicious 12 orders. Do you see that here? 13 A. Yes. 14 Q. Did you discuss suspicious 15 orders with them in connection with this 16 meeting, the DEA? 17 A. I don't remember 18 specifically that. 19 Q. Do you recall the DEA 20 telling you at this time that you had to 21 report suspicious orders when discovered? 22 A. I don't recall the 23 discussion. 24 Q. Do you recall the DEA</p>
<p>1 Q. Do you remember reading 2 any -- did you -- after the meeting, did 3 you read the Federal Register cites that 4 are here about these pharmacies? 5 A. I don't remember. 6 Q. Do you believe you would 7 have shared these -- those Federal 8 Register cites with anyone at 9 AmerisourceBergen? 10 A. I'm sure I did, because I 11 was given binders to take back. 12 Q. You were given more than one 13 copy? 14 A. I think I was given two or 15 three. 16 Q. Okay. Did they tell you 17 what they wanted you to do with these 18 extra copies? 19 A. I think they just offered 20 them as extra copies. 21 Q. Okay. And who did you give 22 it to? 23 A. I couldn't tell you 24 specifically.</p>	<p>1 telling you that reporting a suspicious 2 order to the DEA does not relieve the 3 distributor of the responsibility to 4 maintain effective controls against 5 diversion? 6 A. I don't recall that 7 discussion. 8 Q. Did you have an 9 understanding that that was a 10 requirement -- 11 A. Yes. 12 Q. -- at that time? 13 MS. McCLURE: Object to the 14 form. 15 THE WITNESS: Yes, I 16 understand the requirement. 17 BY MR. PIFKO: 18 Q. What efforts did 19 AmerisourceBergen have in place at that 20 time to identify suspicious orders? 21 A. We had the same report that 22 we discussed earlier that was approved by 23 DEA. 24 Q. Anything else?</p>

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<p>1 A. Be excessive suspicious 2 order report. And that's what we 3 reported to DEA. 4 Q. Anything else? 5 A. That -- anything else that 6 we do to -- 7 Q. At that time -- 8 MS. McCLURE: Were you 9 finished answering his question? 10 THE WITNESS: No. I guess I 11 want him to repeat the question, 12 the last question. When you say 13 anything else, related to what? 14 BY MR. PIFKO: 15 Q. Again, talking about this 16 time period that's up on the slide here, 17 before the suspension of the Orlando 18 facility's registration, but after the 19 AmerisourceBergen merger. Was there 20 anything else in place besides the 21 suspicious excessive order reports that 22 we talked about? 23 A. Sure. Yeah. Yes. 24 Q. To identify suspicious</p>	<p>1 A. Yes. At the time of 2 renewal. 3 Q. What do you mean renewal? 4 What's that? 5 A. Well, the customer is 6 required to renew their license and 7 required to renew their DEA registration. 8 Q. Okay. 9 A. We systematically track 10 that. 11 Q. So when you onboard a 12 customer, you mark the date of when they 13 were required to renew their 14 registration? 15 A. It's loaded in the system. 16 Q. And then you would check at 17 some point after that to see if they 18 still had a valid registration? 19 A. The system monitored it. 20 Once they hit an expiration date, the 21 system would automatically block orders, 22 depending on which license it is. 23 Q. Anything else that you would 24 do to check to see if a registration was</p>
<p>1 orders? 2 A. There's other things in 3 place that the regulations require us to 4 do. 5 We make sure that any 6 pharmacy that we distribute controlled 7 substances to is properly licensed by the 8 state and registered by DEA. 9 Q. How did you do that? 10 A. The requirement is that we 11 make a good faith effort to ensure that 12 they are licensed and registered with 13 DEA, and we typically would -- this was 14 before you could check websites to verify 15 it, we would get copies of their licenses 16 to verify that they were properly 17 licensed. 18 Q. At what stage in the process 19 would you get copies of their license? 20 A. Upon onboarding of the 21 customer. 22 Q. Did you ever engage in any 23 effort to check their license after you 24 onboarded them?</p>	<p>1 revoked or suspended? 2 A. Yes. We'd get a NTIS report 3 that gets reviewed every -- I believe 4 it's every month, and it basically is 5 a -- information about all the customers, 6 DEA registration, it gets matched -- it 7 gets matched up with our customer file 8 and flags any discrepancies, and they get 9 investigated. That's one way. 10 And DEA also sends out a -- 11 they used to mail it out, like a 12 quarterly retired list of any 13 registered -- registration numbers that 14 had been revoked or retired, and that was 15 required to be reviewed. 16 Q. And all those things were 17 done during this time period? 18 A. As I recall, yes. 19 Q. Okay. So you had the 20 excessive suspicious order reports, the 21 checking of the registration. Anything 22 else that you did to identify suspicious 23 orders? 24 A. Again, we had the posting in</p>

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<p>1 the vault and cage with the base quantity 2 levels that -- so we didn't want to 3 totally rely on systems. We wanted to 4 make sure that people had an opportunity 5 to report any orders that looked 6 suspicious to them to their supervisor. 7 Q. Okay. Anything else? 8 A. I can't think of anything 9 else. Could be. 10 Q. Going back to Exhibit 1. 11 I'm on Page 7. 12 A. Okay. 13 Q. It looks like you are there. 14 A. Yes, sir. 15 Q. The second slide on Page 7 16 there says, "Reporting a suspicious order 17 to DEA does not relieve the distributor 18 of the responsibility to maintain 19 effective controls against diversion." 20 Do you see that? 21 A. Yes, I do. 22 Q. Did you have an 23 understanding that that was a requirement 24 at that time?</p>	<p>1 enough necessarily to control diversion, 2 correct? 3 MS. McCLURE: Object to 4 form. 5 THE WITNESS: Again, 6 reporting a suspicious order 7 doesn't relieve us of our 8 responsibility to have effective 9 controls to prevent diversion, 10 which we have in place, we had in 11 place. 12 BY MR. PIFKO: 13 Q. So if diversion occurs even 14 though you reported an order, you're 15 still responsible, correct? 16 MS. McCLURE: Object to the 17 form. 18 THE WITNESS: Can you repeat 19 that again? 20 BY MR. PIFKO: 21 Q. You said reporting a 22 suspicious order doesn't relieve us of 23 our duty to have effective controls 24 against diversion. So I'm just</p>
<p>1 MS. McCLURE: Object to 2 form. 3 THE WITNESS: I understood 4 the regulation, yes. 5 BY MR. PIFKO: 6 Q. What do you understand that 7 to mean? 8 A. That we still have to have 9 effective controls to prevent diversion. 10 We're required to maintain effective 11 controls. 12 Q. And that even if you report 13 an order to the DEA that's suspicious, 14 you still need to do something to make 15 sure it's not diverted? 16 MS. McCLURE: Object to 17 form. 18 THE WITNESS: We just 19 understand that we're -- it 20 doesn't relieve us of our 21 responsibility to maintain 22 effective controls. 23 BY MR. PIFKO: 24 Q. So reporting it alone is not</p>	<p>1 clarifying. Merely reporting it, if an 2 order is suspicious, and you report it 3 and it gets diverted, you're still 4 responsible, correct? 5 MS. McCLURE: Object to the 6 form. Calls for a legal 7 conclusion. 8 THE WITNESS: I disagree. 9 BY MR. PIFKO: 10 Q. Okay. Why do you disagree? 11 A. How can we be responsible 12 for a pharmacy or -- that diverts 13 controlled substances after they've 14 received them from us? 15 Q. Well, you just said that 16 reporting -- even if you report it, you 17 still have responsibility to prevent 18 diversion, correct? 19 A. No. We have a 20 responsibility to maintain effective 21 controls against diversion. So we 22 have -- we had the controls in place. 23 That doesn't mean diversion is not going 24 to take place at some point.</p>

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<p>1 Q. Okay. So if you report an 2 order though, it's still your job to 3 maintain effective controls to prevent 4 diversion of that order, correct? 5 A. I think we keep saying the 6 same thing, yes. 7 Q. Do you agree? 8 MS. McCLURE: Object to the 9 form. 10 THE WITNESS: We have a 11 responsibility to maintain 12 effective controls against 13 diversion. That's the regulation. 14 BY MR. PIFKO: 15 Q. And so it's your job to 16 maintain effective controls against 17 diversion regardless of whether you 18 report an order as suspicious, correct? 19 A. That's correct. 20 MS. McCLURE: Mark, at some 21 point, we've been going for almost 22 an hour and a half. Take a break 23 for lunch. 24 MR. PIFKO: Yeah, we can</p>	<p>1 orders. And we can't rely on DEA to tell 2 us what should be reported and what 3 shouldn't. 4 Q. It's not the DEA's job to 5 tell you if an order is suspicious, 6 correct? 7 MS. McCLURE: Object to the 8 form. 9 THE WITNESS: No, it's not 10 DEA's job to tell us what's 11 suspicious. 12 BY MR. PIFKO: 13 Q. And it's not DEA's job to 14 maintain effective controls against 15 diversion, correct? 16 MS. McCLURE: Object to the 17 form. 18 THE WITNESS: Well, I think 19 DEA has a role to prevent 20 diversion. I think that's why 21 they're in place. 22 BY MR. PIFKO: 23 Q. But it's your job as a 24 registrant to maintain effective controls</p>
<p>1 take a lunch break as soon as we 2 finish this document. 3 BY MR. PIFKO: 4 Q. Let's go to Page 8, the next 5 page? 6 A. Okay. 7 Q. The next slide says 8 "Suspicious Orders." 9 A. Mm-hmm. 10 Q. Do you see that? It says 11 DEA cannot tell a distributor if an order 12 is legitimate or not. Distributor must 13 determine which orders are suspicious and 14 make a sales decision. 15 Do you see that? 16 A. Yes, I do. 17 Q. Do you have an understanding 18 of what that means? 19 A. Yes. 20 Q. What's your understanding of 21 what that means? 22 A. My understanding is we're 23 required to develop a system to detect 24 suspicious -- and report suspicious</p>	<p>1 to prevent diversion, correct? 2 MS. McCLURE: Object to the 3 form. 4 THE WITNESS: Sorry. That's 5 a regulatory requirement. 6 BY MR. PIFKO: 7 Q. This next bullet point here, 8 "Distributor must determine which orders 9 are suspicious and make a sales 10 decision." 11 Do you see that? 12 A. Yes, I see it. 13 Q. What do you understand that 14 to mean? 15 A. I understand that to mean 16 that we have to make our own decision 17 about what's suspicious and what to 18 report. 19 Q. And if an order is 20 suspicious, to make a decision on whether 21 to sell it? 22 A. That's kind of what it says. 23 That's pretty much what it says. 24 Q. You understand that to mean</p>

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1 if an order is suspicious, if you 2 determine that an order is suspicious, 3 you need to make a decision not to sell 4 it? 5 MS. McCLURE: Object to the 6 form. 7 THE WITNESS: No. 8 BY MR. PIFKO: 9 Q. You don't understand that to 10 mean that? 11 A. I understand that it means 12 we have to -- it's up to us to determine 13 what's a suspicious order and then we 14 make a business decision about whether to 15 fill the order or not. 16 Q. Do you believe that selling 17 an order that you've determined to be 18 suspicious is inconsistent with your duty 19 to prevent diversion? 20 MS. McCLURE: Object to the 21 form. 22 THE WITNESS: No. 23 BY MR. PIFKO: 24 Q. So you don't believe that if	1 A. I don't recall specific 2 discussions about these slides. 3 Q. Do you recall there being 4 discussion about what attributes are of 5 an internet pharmacy and investigations 6 that you could conduct to determine 7 whether a pharmacy is an internet 8 pharmacy? 9 MS. McCLURE: Object to the 10 form. Compound. 11 THE WITNESS: The first part 12 of your question, I understand 13 that this was a discussion of the 14 attributes of what could be an 15 internet pharmacy. 16 BY MR. PIFKO: 17 Q. And did you understand that 18 the DEA expected you to conduct 19 investigations to determine if your 20 customers were internet pharmacies? 21 A. As I recall, they gave us -- 22 they are not part of this attachment. 23 But they gave us some questions that they 24 suggested that we ask. I don't think it	
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1 you sell an order that's suspicious, you 2 could be contributing to diversion? 3 MS. McCLURE: Object to the 4 form. 5 THE WITNESS: I don't know 6 that diversion takes place just 7 because an order is reported as 8 suspicious. It doesn't mean it's 9 diversion. 10 BY MR. PIFKO: 11 Q. The next series of slides 12 are about examples of pharmacies. The 13 copy we have is essentially illegible 14 with these pictures. But do you have an 15 understanding about what was portrayed in 16 these slides, and did you discuss it at 17 the meeting? 18 MS. McCLURE: Object to the 19 form. Compound. 20 THE WITNESS: I don't 21 recall. 22 BY MR. PIFKO: 23 Q. I'm talking about from 24 Pages 9 to 11.	1 was called investigations. But they -- 2 they gave us some questions that they 3 felt like would be -- that they 4 recommended we ask of our customers. 5 Q. And those were included in 6 your questionnaire? 7 A. Yes. As I recall. 8 Q. Let's go to Page 12. 9 A. Okay. 10 Q. Second slide. 11 A. Okay. 12 Q. Well, let's go actually to 13 the first slide, Popular Internet Drugs. 14 Do you see that? 15 A. Yes. 16 Q. Hydrocodone. Do you see 17 that? 18 You have an understanding -- 19 we talked about hydrocodone earlier. 20 A. Mm-hmm. Right. 21 Q. Do you recall discussing 22 these drugs being of concern? 23 A. Yes. 24 Q. Why is that?	

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<p>1 A. Why -- why they were drugs 2 of concern? 3 Q. Yeah. 4 A. As I recall, those were the 5 more common drugs that were being filled 6 from internet activity. 7 Q. And those drugs were 8 potentially being subject to abuse? 9 A. Any controlled substance is 10 subject to abuse, yes. 11 Q. But these were of particular 12 concern? 13 A. I think these were -- my 14 understanding is these were particularly 15 of concern because these were the popular 16 internet drugs, is what I recall. 17 Q. Next slide talks about 18 "prescriptions not written in the usual 19 course of professional practice are not 20 valid." 21 Do you have an understanding 22 of what -- what that means? 23 A. Yes, I do. 24 Q. What does that mean?</p>	<p>1 corresponding responsibility. 2 That was part of a 3 question -- I think that was part 4 of the question in our 5 questionnaire. If they answered 6 that they didn't fill them based 7 on that, then that was a red flag 8 for us, that it can be an internet 9 pharmacy. 10 BY MR. PIFKO: 11 Q. And the DEA also told you 12 that drugs dispensed pursuant to invalid 13 prescriptions are not for legitimate 14 medical purposes, the drugs are diverted? 15 A. I see it, yes. 16 Q. That's what they told you? 17 A. I don't recall the 18 conversations. I just see what's in the 19 slides. 20 Q. They communicated that to 21 you -- 22 A. It was 13 years ago. 23 Q. Okay. They communicated 24 that to you via these slides for sure</p>
<p>1 A. It basically means that the 2 DEA expects a prescription to be written 3 based on a face-to-face doctor-patient 4 relationship. 5 Q. And so did the DEA expect 6 you to assess whether your customers were 7 filling prescriptions that may have been 8 generated through an invalid professional 9 practice? 10 A. I don't think they looked at 11 that as our role. They looked at that 12 as -- they -- that's why they gave us 13 some of these things, characteristics to 14 look for, and questions to ask. But 15 not -- not to know whether -- you know, 16 how the prescriptions were written. 17 Q. But they wanted you to 18 consider whether the prescriptions were 19 not being written face-to-face as part of 20 your assessment of these issues? 21 MS. McCLURE: Object to the 22 form. Misstates prior testimony. 23 THE WITNESS: That's the -- 24 that's the pharmacies'</p>	<p>1 Page 187 2 though, right? 3 A. Yes. 4 Q. And they said that's not 5 limited to internet pharmacies as well, 6 correct? 7 A. That's what it says. 8 Q. Going to the next page, 9 Page 13. 10 Q. You see here it says, "A 11 pattern of drugs being distributed to 12 pharmacies who are diverting controlled 13 substances demonstrates the lack of 14 effective controls against diversion by 15 the distributor." 16 Do you see that? 17 A. I see it. 18 Q. Okay. So again, the DEA 19 communicated to you at a minimum through 20 these slides that if you as a distributor 21 are selling drugs in a pattern to 22 pharmacies who are diverting them, that 23 is evidence of a lack of effective 24 controls against diversion. Agree?</p>

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<p>1 MS. McCLURE: Object to the 2 form.</p> <p>3 THE WITNESS: Let me read 4 this again. Yeah, my read of this 5 is if there is a pattern that a 6 distributor is -- is knowingly 7 distributing drugs to a pharmacy 8 that's diverting them would be a 9 lack of effective controls.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Where does it say knowingly?</p> <p>12 A. Well, that's just my 13 interpretation --</p> <p>14 Q. Okay. But it doesn't say 15 that, right?</p> <p>16 A. -- pattern -- no, it doesn't 17 say that.</p> <p>18 Q. Okay. So what they 19 communicated to you was that simply 20 having a pattern of drugs being 21 distributed to pharmacies who were 22 diverting controlled substances 23 demonstrates the lack of effective 24 controls against diversion by the</p>	<p>1 Q. Okay. Do you have an 2 understanding about why the distributor's 3 action is supposed to be in the public 4 interest?</p> <p>5 A. Yes.</p> <p>6 Q. Why is that?</p> <p>7 A. Well, they want to ensure 8 that drugs are not diverted into 9 illegitimate channels.</p> <p>10 Q. And that's -- as a 11 distributor, that's your job, among other 12 things, to make sure that doesn't happen, 13 right?</p> <p>14 MS. McCLURE: Object to the 15 form of the question.</p> <p>16 THE WITNESS: To have 17 effective controls in place to 18 prevent it.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. The next slide here, it 21 says, "Any distributor who is selling 22 controlled substances that are being 23 dispensed outside the course of 24 professional practice must stop</p>
<p>1 distributor, correct?</p> <p>2 MS. McCLURE: Object to 3 form.</p> <p>4 THE WITNESS: That's what it 5 says, "a pattern of drugs being 6 distributed to pharmacies."</p> <p>7 BY MR. PIFKO:</p> <p>8 Q. And they gave this to you, 9 correct?</p> <p>10 A. As I recall, yes. Yes.</p> <p>11 Q. And then it says here, "The 12 DEA registration of the distributor could 13 be revoked under public interest 14 grounds."</p> <p>15 Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. Do you have an understanding 18 about what that means?</p> <p>19 A. Yes, I do.</p> <p>20 Q. What does that mean?</p> <p>21 A. That if a distributor is -- 22 if they feel that the distributor's 23 actions are against the public interest, 24 then they could revoke the registration.</p>	<p>1 immediately."</p> <p>2 Do you see that?</p> <p>3 A. I see that.</p> <p>4 Q. Do you have an understanding 5 about what that means?</p> <p>6 A. Yes --</p> <p>7 Q. What's your understanding?</p> <p>8 A. -- yes.</p> <p>9 If -- if we're dispensing --</p> <p>10 if we're distributing controlled 11 substances and we find out that they are 12 being dispensed outside of the course of 13 professional practice, then we should 14 stop distributing to them once we become 15 aware of it.</p> <p>16 Q. And why is that?</p> <p>17 A. Because that would be an 18 indication there could be diversion.</p> <p>19 Q. Next bullet point there.</p> <p>20 "DEA cannot guarantee that past failure 21 to maintain effective controls against 22 diversion will not result in an action 23 against a distributor."</p> <p>24 Do you see that?</p>

	Page 194	Page 196
	<p>1 A. Yes, I do.</p> <p>2 Q. Do you have an understanding</p> <p>3 about what that means?</p> <p>4 A. I can tell you what I think</p> <p>5 it means.</p> <p>6 Q. Well, they communicated this</p> <p>7 to you at the time, they gave you this</p> <p>8 presentation, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Did you read it?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Did you tell them you</p> <p>13 didn't understand what that meant?</p> <p>14 MS. McCLURE: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: I can only</p> <p>17 tell you what I think it means. I</p> <p>18 can't remember what they said</p> <p>19 13 years ago.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. I'm just asking you if you</p> <p>22 recall upon receiving this, telling the</p> <p>23 DEA that you didn't understand what any</p> <p>24 of this meant?</p>	<p>1 meet with industry groups. Do you see</p> <p>2 that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Do you recall discussing</p> <p>5 that?</p> <p>6 A. No, I don't recall</p> <p>7 discussing it.</p> <p>8 Q. Do you recall them telling</p> <p>9 you they were going to meet with other</p> <p>10 distributors?</p> <p>11 A. I recall them saying that</p> <p>12 they will be meeting with -- with other</p> <p>13 distributors, yes.</p> <p>14 Q. What did they say about</p> <p>15 that?</p> <p>16 A. I think they called it their</p> <p>17 distributor initiative. And they were</p> <p>18 going to start meeting with all the</p> <p>19 distributors.</p> <p>20 Q. Did they tell you</p> <p>21 specifically any other distributors they</p> <p>22 were going to be meeting with?</p> <p>23 A. No.</p> <p>24 Q. You were part of the</p>
	<p>1 A. I don't recall.</p> <p>2 Q. What's your understanding of</p> <p>3 what the second bullet point there means,</p> <p>4 "DEA cannot guarantee that past failure</p> <p>5 to maintain effective controls against</p> <p>6 diversion will not result in an action</p> <p>7 against a distributor"?</p> <p>8 Will -- will -- yeah.</p> <p>9 What's your understanding what that</p> <p>10 means?</p> <p>11 A. Well, I think what it means</p> <p>12 is if you had a failure and even though</p> <p>13 you may have corrected that, and remedied</p> <p>14 the situation, that doesn't mean later on</p> <p>15 that they discover it and they could not</p> <p>16 come back and take action against you for</p> <p>17 that past failure.</p> <p>18 Q. The next page. Top slide.</p> <p>19 A. Okay.</p> <p>20 Q. It talks about -- it says,</p> <p>21 "DEA is going to meet with other</p> <p>22 distributors. Tell you to provide this</p> <p>23 information to your employees at your</p> <p>24 request." And they say they are going to</p>	<p>1 Healthcare Distribution Alliance,</p> <p>2 correct?</p> <p>3 A. Our company is a member,</p> <p>4 yes.</p> <p>5 Q. But you specifically</p> <p>6 participated, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Did you, at this time -- did</p> <p>9 they present anything to -- through the</p> <p>10 had about this issue?</p> <p>11 MS. McCLURE: Objection to</p> <p>12 form.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. I know it was a predecessor</p> <p>15 name at that time, but...</p> <p>16 A. I can't remember precisely.</p> <p>17 But DEA was often invited to meet with</p> <p>18 had and had met with DEA over several</p> <p>19 topics.</p> <p>20 MR. PIFKO: All right.</p> <p>21 Let's take a break.</p> <p>22 THE VIDEOGRAPHER: We are</p> <p>23 going off record. The time is</p> <p>24 12:47.</p>

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<p>1 (Lunch break.)</p> <p>2 THE VIDEOGRAPHER: Going</p> <p>3 back on the record. Beginning</p> <p>4 Media File Number 3. The time is</p> <p>5 1:28.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Welcome back.</p> <p>8 I want to start talking now</p> <p>9 about the, as you said, oversight of the</p> <p>10 development of the enhanced ordering</p> <p>11 monitoring program.</p> <p>12 So that occurred after the</p> <p>13 DEA settlement, correct?</p> <p>14 A. During the settlement</p> <p>15 process, yes.</p> <p>16 Q. Okay. As part of the,</p> <p>17 another one of these little slides for</p> <p>18 you, so we are on the same page.</p> <p>19 A. I'm not seeing it yet.</p> <p>20 MS. McCLURE: It's okay.</p> <p>21 THE WITNESS: Here it is.</p> <p>22 MS. McCLURE: Again, your</p> <p>23 date there is the settlement date.</p> <p>24 MR. PIFKO: That's the date</p>	<p>1 Q. Okay.</p> <p>2 A. -- but that's a guess.</p> <p>3 Q. Okay?</p> <p>4 A. That might be on the high</p> <p>5 side even.</p> <p>6 Q. You think it might have been</p> <p>7 less than 12 at that time?</p> <p>8 A. It could have been. I</p> <p>9 just --</p> <p>10 Q. Definitely less than 20?</p> <p>11 A. When you say CSRA</p> <p>12 department, I can't remember exactly.</p> <p>13 Q. In the hierarchy of things,</p> <p>14 Chris Zimmerman was at the top of the</p> <p>15 CSRA, correct?</p> <p>16 A. That's correct.</p> <p>17 Q. And then you were a direct</p> <p>18 report to Zimmerman, correct?</p> <p>19 A. That's correct.</p> <p>20 Q. Did anyone else, other than</p> <p>21 you, have a role in the diversion control</p> <p>22 aspect of the CSRA?</p> <p>23 A. Yes.</p> <p>24 Q. Who else in the CSRA at the</p>
<p style="text-align: center;">Page 199</p> <p>1 of the agreement.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. Okay. So let's talk</p> <p>4 about -- so the DEA settlement occurs.</p> <p>5 And you -- at what point did you get</p> <p>6 tasked with overseeing the development of</p> <p>7 the enhanced order monitoring program?</p> <p>8 A. Almost from -- it was while</p> <p>9 the negotiations were going on for the</p> <p>10 settlement.</p> <p>11 Q. Let's talk -- so you said,</p> <p>12 at this 2007 time period, I asked you</p> <p>13 earlier how many employees were in the</p> <p>14 CSRA. Do you remember --</p> <p>15 A. Yeah.</p> <p>16 Q. -- how many employees there</p> <p>17 were around that time?</p> <p>18 A. Oh, no, I don't know the</p> <p>19 exact number specifically.</p> <p>20 Q. Okay. At one point you said</p> <p>21 13 or 14.</p> <p>22 A. No, I think I said 12.</p> <p>23 Q. Okay.</p> <p>24 A. I said about a dozen --</p>	<p style="text-align: center;">Page 201</p> <p>1 time of the DEA enforcement action was</p> <p>2 engaged in performing diversion-related</p> <p>3 functions?</p> <p>4 A. You mean at the time of the</p> <p>5 action or after we started?</p> <p>6 Q. Well, good question.</p> <p>7 Before you added anybody</p> <p>8 after the action.</p> <p>9 MS. McCLURE: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: So it was</p> <p>12 pretty much everyone at the</p> <p>13 corporate office, in the</p> <p>14 department, was engaged. We</p> <p>15 pretty much engaged everyone that</p> <p>16 we could. Kind of</p> <p>17 all-hands-on-deck.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. But -- no, I mean -- okay,</p> <p>20 but before you even knew about the</p> <p>21 enforcement action, just day to day who</p> <p>22 in the CSRA had responsibilities that</p> <p>23 included diversion control?</p> <p>24 A. Well, at that time it was</p>

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<p>1 all under regulatory, which was, you 2 know, I was in charge of the regulatory 3 side of our department. And then Eric 4 was -- Eric reported to me at that time 5 as one of my regional directors. And he 6 also had that responsibility that we 7 discussed earlier.</p> <p>8 Q. So you were the top person 9 at that time on diversion control issues, 10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you had Eric helping you 13 out underneath you?</p> <p>14 A. Mm-hmm, that's correct.</p> <p>15 Q. Anyone else?</p> <p>16 A. Not that I can recall.</p> <p>17 Q. Okay. And so, then you get 18 tasked with overseeing the development of 19 the enhanced order monitoring program, 20 because at that time you're the 21 senior-most diversion control person, 22 correct?</p> <p>23 A. That's correct.</p> <p>24 Q. So how did you first learn</p>	<p>1 Q. Zimmerman? 2 A. Yes. 3 Q. And you had a discussion 4 with him that the license at the Orlando 5 facility had been suspended?</p> <p>6 A. That's correct.</p> <p>7 Q. And what did he tell you?</p> <p>8 A. I can't remember 9 specifically. I think we went over and 10 told his boss who was the general 11 counsel.</p> <p>12 Q. And then did you contact DEA 13 at some point after that?</p> <p>14 A. I didn't, no, not 15 personally.</p> <p>16 Q. Do you know if Mr. Zimmerman 17 did?</p> <p>18 A. Mr. Chou, general counsel, 19 called -- called them from his office, 20 and Chris and I, I believe, were both in 21 the office at the time.</p> <p>22 Q. And did the DEA tell you why 23 they suspended the registration at that 24 time?</p>
<p>1 about the enforcement action?</p> <p>2 A. I got a call from the 3 distribution center manager in Orlando. 4 And he told me the DEA was there and they 5 were putting a padlock on their cage, 6 that they were suspending their 7 registration.</p> <p>8 Q. And do you remember the 9 approximate date of when that happened?</p> <p>10 A. Approximate? Yeah, it was 11 around April 21st, 22nd, something like 12 that, of 2007. It was in April. I think 13 it was 21st.</p> <p>14 Q. Did you speak to anyone at 15 the DEA immediately upon learning of that 16 information?</p> <p>17 MS. McCLURE: Object to the 18 form.</p> <p>19 THE WITNESS: Not 20 immediately. No.</p> <p>21 BY MR. PIFKO:</p> <p>22 Q. What was the first action 23 you took when you learned that?</p> <p>24 A. I told my boss.</p>	<p>1 A. I don't remember exactly 2 what they said, because John Chou was on 3 the phone with them.</p> <p>4 Q. Did they send you any 5 documentation after suspending the 6 registration?</p> <p>7 A. Not that I recall.</p> <p>8 Q. So at what point in the 9 process did Mr. Zimmerman tell you that 10 you were going to be in charge of 11 developing an enhanced order monitoring 12 program?</p> <p>13 A. It was probably after -- a 14 week later after meetings with DEA to 15 determine what the issue was and what 16 they wanted us to do.</p> <p>17 Q. Did you participate in those 18 meetings?</p> <p>19 A. No.</p> <p>20 Q. No?</p> <p>21 A. No.</p> <p>22 Q. Do you know who did?</p> <p>23 A. I went down the first day.</p> <p>24 And I don't even recall what was</p>

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<p>1 discussed in that meeting. But I wasn't 2 involved in any of the negotiations after 3 that.</p> <p>4 Q. You said you went down to 5 Orlando?</p> <p>6 A. No. To DEA headquarters.</p> <p>7 Q. Okay. And who did you meet 8 with there?</p> <p>9 A. There were several DEA 10 people in the room. Mike Mapes was in 11 there. And I think even the assistant 12 administrator, I think was in there. I 13 can't -- I can't recall who from DEA was 14 in there.</p> <p>15 Q. And so then approximately a 16 week later, Chris Zimmerman tells you 17 we're going to have an enhanced order 18 monitoring program and you're going to be 19 in charge of developing it?</p> <p>20 A. In so many words, yes.</p> <p>21 Q. How did you know what 22 features you wanted to make changes to?</p> <p>23 A. Well, it was based on -- it 24 was based on information that was relayed</p>	<p>1 worked at the corporate office was -- was 2 engaged to assist.</p> <p>3 Q. And then I was asking about 4 the number of people in the department, 5 and you were asking before or after. At 6 some point more people were added to the 7 team. When was that?</p> <p>8 A. At some time after that. I 9 can't remember, you know, how long it 10 took. But I know we added a couple of 11 other investigators to help to be trained 12 to review orders.</p> <p>13 Q. Do you know their names?</p> <p>14 A. I can't remember exactly. I 15 think Ed was hired. Or he may have 16 already been on board at that point. Ed 17 Hazewski as an investigator. A gentleman 18 named Scott Kirsch. I know he was one of 19 the investigators that reviewed orders in 20 the beginning.</p> <p>21 David Britmeier, I think he 22 came a little later.</p> <p>23 Eric helped -- Eric helped. 24 I'm trying to think. Cliff</p>
Page 207	Page 209
<p>1 to us from DEA that they wanted us to be 2 able to stop an order and review it 3 before shipping it.</p> <p>4 Q. Anything else?</p> <p>5 A. That's all I can recall.</p> <p>6 Q. Who communicated to you that 7 DEA wanted you to stop an order and 8 review it before shipping it?</p> <p>9 A. I'm assuming Chris but I 10 can't -- don't know -- I can't remember 11 for sure.</p> <p>12 Q. Did you pass that 13 information on to anyone else?</p> <p>14 A. Just internally. Just 15 internal discussions. I couldn't tell 16 you specifically who.</p> <p>17 Q. Okay. So then you -- you 18 said it was all-hands-on-deck at that 19 point. Who was involved and assisted you 20 at that point?</p> <p>21 A. Pretty much everybody in the 22 department. The -- my direct reports. 23 The -- the investigators. Pretty much 24 everybody in the department that -- that</p>	<p>1 Flood worked in security. He helped us.</p> <p>2 Q. We're talking about new 3 people.</p> <p>4 A. New people. Okay. So I 5 know David Britmeier and Scott Kirsch and 6 Ed were, I think, the more recent hires 7 right after the -- the action, but I 8 can't remember if there were others.</p> <p>9 Q. Their -- they were all -- 10 their immediate task was to -- to review 11 orders?</p> <p>12 A. Yes, I believe so. They -- 13 and conduct investigations.</p> <p>14 Q. Did you make any changes to 15 your threshold system at that point?</p> <p>16 MS. McCLURE: Object to the 17 form.</p> <p>18 THE WITNESS: There wasn't a 19 threshold system at that point.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Okay. Right. You said 22 there was a rolling three-month 23 average --</p> <p>24 A. Right.</p>

1 Page 210

2 Q. -- with the percentage?
3 Did you make any changes to
4 that aspect of the order monitoring
5 program at that time?

6 A. Yeah, when we developed
7 the -- back when we developed the
8 enhanced program, it took the place of
9 the old program.

10 Q. Okay. So an entirely new
11 program designed from the ground up?

12 MS. McCLURE: Object to the
13 form.

14 THE WITNESS: It took the
15 place -- it replaced it. Yes.

16 BY MR. PIFKO:

17 Q. Okay. So let's talk
18 about --

19 A. An enhanced version.

20 Q. Is there a name for that
21 program or?

22 A. Yeah, order monitoring --
23 OMP. Order monitoring program.

24 Q. So let's go over. What are
the general attributes of the OMP?

1 Page 212

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Page 218	Page 220
[Redacted content]	[Redacted content]
[Redacted content]	<p>8 (Document marked for 9 identification as Exhibit 10 ABDC-Mays-2.) 11 BY MR. PIFKO: 12 Q. I'm handing you what's been 13 marked as Exhibit 2. 14 The record will reflect the 15 witness is reviewing the document. 16 For the record, it's a 17 document Bates-labeled ABDCMDL0000075 18 through 84. 19 It's dated June 29, 2007. 20 It's a memorandum. The subject is 21 "Update OMP Distribution Center 22 Procedures." 23 Let me know when you're 24 done.</p>

	Page 222	Page 224
1	A. I will. Okay.	1 MS. McCLURE: Object to the
2	Q. Have you seen this document	2 form.
3	before?	3 THE WITNESS: I'm sure it
4	A. I don't remember it	4 wasn't the only way. It looks
5	specifically.	5 like -- it looks like it was
6	Q. Your name is on here,	6 directed to the distribution
7	correct?	7 center associates.
8	A. Yes. It looks like I was	8 BY MR. PIFKO:
9	copied on it.	9 Q. You reviewed this document.
10	Q. Is this something that you	10 Is this consistent with what your
11	would have put together or someone -- is	11 understanding of the program was?
12	this something that you would have put	12 A. Yes, it is.
13	together?	13 Q. Is there anything that you
14	MS. McCLURE: Object to the	14 see in here that's inaccurate?
15	form.	15 MS. McCLURE: Objection.
16	THE WITNESS: I don't think	16 THE WITNESS: I would have
17	so, because there's a lot of	17 to go through it like very
18	technical things in here. So I'm	18 carefully. But I didn't --
19	not really sure. It looked like	19 nothing jumped out at me as being
20	it might be more of a team	20 inaccurate.
21	approach. There's IT, you know,	21 BY MR. PIFKO:
22	print screens of computer screens	22 Q. Okay. Well, let's go to the
23	and things like that, technical	23 second page.
24	stuff that I wouldn't have been	24 A. Okay.
	Page 223	Page 225
1	able to put in here.	[REDACTED]
2	BY MR. PIFKO:	[REDACTED]
3	Q. You said that you were	[REDACTED]
4	supervising the development of the	[REDACTED]
5	program, correct?	[REDACTED]
6	A. That's correct.	[REDACTED]
7	MS. McCLURE: Object to the	[REDACTED]
8	form.	[REDACTED]
9	BY MR. PIFKO:	[REDACTED]
10	Q. Did you have someone on your	[REDACTED]
11	team that you would have directed to	[REDACTED]
12	write a memo like this for you?	[REDACTED]
13	A. I don't recall.	[REDACTED]
14	Q. You don't remember?	[REDACTED]
15	A. I don't remember.	[REDACTED]
16	Q. Do you know what this	[REDACTED]
17	document is?	[REDACTED]
18	A. Yes. It appears to be a	[REDACTED]
19	document updating the distribution	[REDACTED]
20	centers on the procedures for OMP, the	[REDACTED]
21	new OMP.	[REDACTED]
22	Q. So this is the way that the	[REDACTED]
23	company communicated the new OMP to the	[REDACTED]
24	distribution centers?	[REDACTED]

Page 226	Page 228
[Redacted content]	[Redacted content]
Page 227	Page 229

Page 230	Page 232
Page 231	Page 233

Page 234	Page 236
	<p>7 Q. Was there any specific 8 training provided to distribution center 9 associates about how to identify a 10 suspicious order when you implemented 11 this program?</p> <p>12 A. Yes.</p> <p>13 Q. Was it put in writing?</p> <p>14 A. Yes.</p> <p>15 Q. Was -- was there a name for 16 that document?</p> <p>17 A. I think it was called 18 responsible -- RPIC training, Responsible 19 Person in Charge. So anyone that 20 reviewed and had -- had the authority to 21 review and release or reject orders had 22 to complete that training and sign off on 23 it.</p> <p>24 Q. Okay. What was entailed in ¹ that training?</p> <p>2 A. I can't recall specifically.</p> <p>3 Q. Was it an in-person 4 training?</p> <p>5 A. Most of the time I think it 6 was. As a matter of fact, it may have 7 always been in-person training.</p> <p>8 Q. And there was a document -- 9 written documentation that went with the 10 training?</p> <p>11 A. There should have been, yes.</p> <p>12 Q. Do you have a sense of how 13 long the training session would be?</p> <p>14 A. No, I don't.</p> <p>15 Q. An hour?</p> <p>16 A. It's been years ago. I 17 can't -- I can't remember how they 18 were -- how they were trained. I just 19 know that they were trained.</p> <p>20 Q. Do you know who would have 21 conducted the training?</p> <p>22 A. I think initially in some 23 cases -- well pretty much in just about 24 most cases, the compliance manager or the</p>

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<p>1 CSRA manager, on-site manager conducted 2 the training. 3 Q. And who trained them? 4 A. They would have been trained 5 by, I would think our team. I just don't 6 remember exactly how they were trained. 7 Again, we have annual training 8 conferences. 9 Q. Is there someone specific on 10 your team at that time who was 11 responsible for handling trainings? 12 A. I don't recall. I don't 13 think so. 14 Q. It just could have been 15 anyone under you? 16 A. Yeah. 17 MS. McCLURE: Object to the 18 form. 19 THE WITNESS: Excuse me. 20 BY MR. PIFKO: 21 Q. Do you recall having someone 22 having the job responsibility of 23 conducting training for the distribution 24 centers?</p>	<p>[REDACTED]</p>

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<p>1 A. Well, the compliance manager 2 on site was responsible for doing all the 3 training at the distribution center. 4 Q. Well, I mean from your group 5 to train the compliance manager? 6 A. They were trained by our 7 entire team. 8 Q. They would come to you for 9 that training? 10 A. Yes. 11 Q. Annually like you said? 12 A. Annually. Just about every 13 year we have a training conference. 14 Q. And was there documents 15 provided in connection with those 16 training conferences? 17 A. I'm sure we have, you know, 18 the documents as far as the PowerPoints 19 and things like that. I don't know if 20 we've actually got sign offs from each 21 one of them. 22 Q. When a -- going back to 23 Exhibit 2, Page 4.</p> <p>[REDACTED]</p>	<p>[REDACTED]</p>

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3 MS. McCLURE: Object to the
4 form.

5 THE WITNESS: Something just
6 died here.

7 MR. PIFKO: I think they
8 just turned it off.

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Page 243

Page 245

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Page 248

[REDACTED]

Page 247

Page 249

[REDACTED]

Page 250	Page 252
[REDACTED]	[REDACTED]
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18 Q. Who trained the
19 investigators to do the investigation?
20 A. It would be me and the lead
21 team and -- and CSRA with DEA's
22 assistance.
23 Q. Was there documentation of
24 the training that was provided to the

1 investigators? 2 A. I don't know. I don't 3 recall. 4 Q. You don't know if there was 5 any handouts or anything given to them 6 when they were trained? 7 A. I don't recall. 8 MS. McCLURE: Objection. 9 Asked and answered. 10 BY MR. PIFKO: 11 Q. Was there any regularity 12 with the training? 13 MS. McCLURE: Objection to 14 form. 15 THE WITNESS: I don't 16 recall. 17 BY MR. PIFKO: 18 Q. Did anyone give you specific 19 training on how to conduct a due 20 diligence investigation? 21 A. DEA. 22 Q. When did they give you 23 training? 24 A. Sometime during that	Page 254 1 June 2007? 2 A. No. 3 MS. McCLURE: Objection. 4 BY MR. PIFKO: 5 Q. When -- when is this? 6 A. It was prior to that. 7 Q. Okay. When was the enhanced 8 OMP implemented? 9 A. Around June. They were 10 there in the development of it. 11 Q. Okay. So they were there 12 between April and June 2007? 13 A. That's correct. 14 Q. About how many times did 15 they come meet with you then? 16 A. I don't remember. 17 Q. More than ten? 18 A. I don't remember. 19 Q. And at some point they gave 20 you training on how to conduct due 21 diligence? 22 A. I explained that. They gave 23 us general guidelines and -- and 24 observations, and they were there during	Page 256
1 process. When they were working with us 2 through the settlement. 3 Q. Where did you go to do the 4 training? 5 A. They just gave it. It 6 wasn't like formal training. They just 7 gave us general pointers and ideas about 8 how we should conduct our investigations. 9 They gave us the guidelines. 10 Q. They gave you something in 11 writing? 12 A. No. 13 Q. Who -- who told you this? 14 A. Mike Mapes, Kyle Wright, for 15 the most part. 16 Q. They came and met with you 17 and told you? 18 A. Yes. 19 Q. And when did they come and 20 meet with you? 21 A. They were there multiple 22 times during the implementation of the 23 enhanced OMP. 24 Q. And this is in the -- after	Page 255 1 the development. 2 Q. How long did you meet with 3 them? 4 A. I don't remember. 5 Q. All day, or -- 6 A. I don't remember. 7 Q. Did anyone ever give you 8 formal training on the DEA laws and 9 regulations? 10 MS. McCLURE: Object to the 11 form. 12 THE WITNESS: I've had 13 training several times over the 14 years. I think we talked about 15 that earlier during our training 16 conferences. 17 BY MR. PIFKO: 18 Q. At this time in 2007 had 19 anyone given you training on DEA rules 20 and regulations? 21 MS. McCLURE: Object to the 22 form. 23 THE WITNESS: Yes. 24 BY MR. PIFKO:	Page 257

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<p>1 Q. Who?</p> <p>2 A. People within our</p> <p>3 department. DEA. DEA has provided</p> <p>4 training in our training conferences.</p> <p>5 All the regulations.</p> <p>6 Q. When -- when did you have a</p> <p>7 training conference where someone from</p> <p>8 the DEA gave you training?</p> <p>9 A. Multiple times.</p> <p>10 Q. In 2005?</p> <p>11 A. I don't recall. I don't</p> <p>12 recall specific dates.</p> <p>13 Q. How about in 2006?</p> <p>14 A. I don't know. I don't</p> <p>15 remember.</p> <p>16 Q. Who from the DEA gave you</p> <p>17 training on their rules and regulations?</p> <p>18 A. Scott Davis from DEA in</p> <p>19 Philadelphia a couple of times. Mike</p> <p>20 Mapes. Who else? Mike Mapes more than</p> <p>21 once. Brian Reese from DEA provided</p> <p>22 training for our team. So there's four</p> <p>23 or five times specifically.</p> <p>24 Q. Okay.</p>	<p>1 Q. Well, you correct me then.</p> <p>2 A. I said I met with DEA in</p> <p>3 Atlanta once.</p> <p>4 Q. Okay.</p> <p>5 A. I've met with DEA at</p> <p>6 different meetings, conference -- trade</p> <p>7 association conferences. They've been to</p> <p>8 the offices to do training at our</p> <p>9 training conferences. I provided training</p> <p>10 to DEA people.</p> <p>11 Q. When did DEA -- DEA came to</p> <p>12 AmerisourceBergen's office to do</p> <p>13 training?</p> <p>14 A. Yes. Yes.</p> <p>15 Q. When was that?</p> <p>16 A. During our training</p> <p>17 conferences.</p> <p>18 Q. Annually, every year?</p> <p>19 A. Not every year. But they</p> <p>20 came, they were invited. Sometimes they</p> <p>21 were invited and couldn't come. But we</p> <p>22 tried to invite them almost every year.</p> <p>23 That's to our entire department.</p> <p>24 Q. Did anyone other than DEA</p>
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<p>1 A. I just don't know the dates.</p> <p>2 Q. Were those before or after</p> <p>3 2007?</p> <p>4 A. Both.</p> <p>5 Q. You testified earlier that</p> <p>6 that meeting in 2005 was only the second</p> <p>7 time you met with anyone at DEA. Do you</p> <p>8 recall?</p> <p>9 MS. McCLURE: Objection.</p> <p>10 Misstates prior testimony.</p> <p>11 THE WITNESS: I don't recall</p> <p>12 saying that.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. You said that you met</p> <p>15 someone in the '70s in Tennessee, and</p> <p>16 then you said that that meeting,</p> <p>17 Exhibit 1, was the only other time that</p> <p>18 you recall meeting with someone from the</p> <p>19 DEA.</p> <p>20 MS. McCLURE: Objection.</p> <p>21 Misstates prior testimony.</p> <p>22 THE WITNESS: No, that's not</p> <p>23 what I said.</p> <p>24 BY MR. PIFKO:</p>	<p>1 train you on DEA rules and regulations?</p> <p>2 MS. McCLURE: Object to the</p> <p>3 form. Asked and answered.</p> <p>4 THE WITNESS: Not other than</p> <p>5 internal people.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Who internally gave you</p> <p>8 training on DEA rules and regulations?</p> <p>9 A. Other directors and managers</p> <p>10 in our department that were -- that had</p> <p>11 experience in the past.</p> <p>12 Q. Can you name anyone?</p> <p>13 A. Rodney Bias. Larry Holland.</p> <p>14 Chris Zimmerman. Myself, I've done</p> <p>15 training for our team.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

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[REDACTED]

1 [REDACTED]
[REDACTED]

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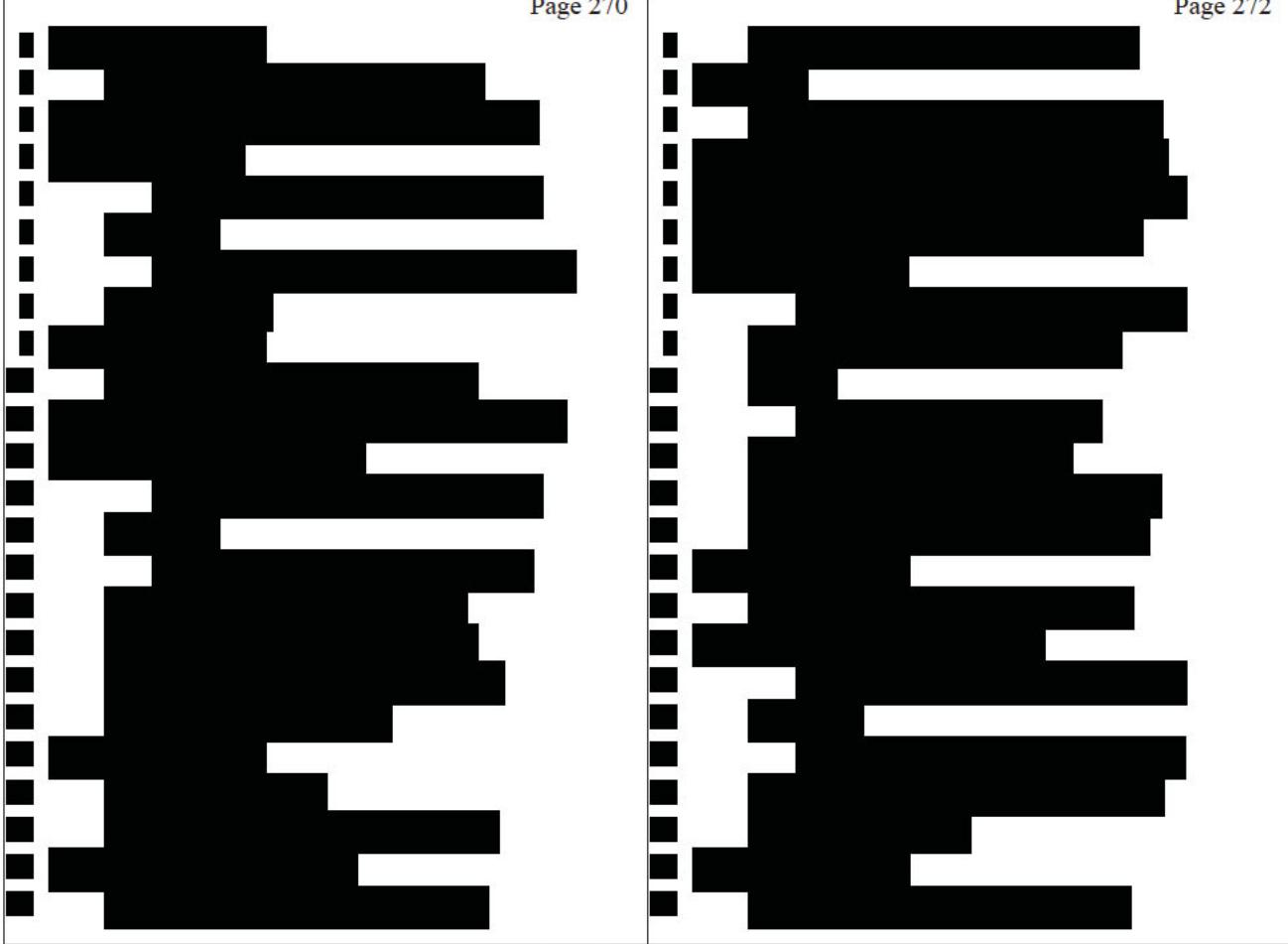
[REDACTED]

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[Redacted content from Page 266]	[Redacted content from Page 268]

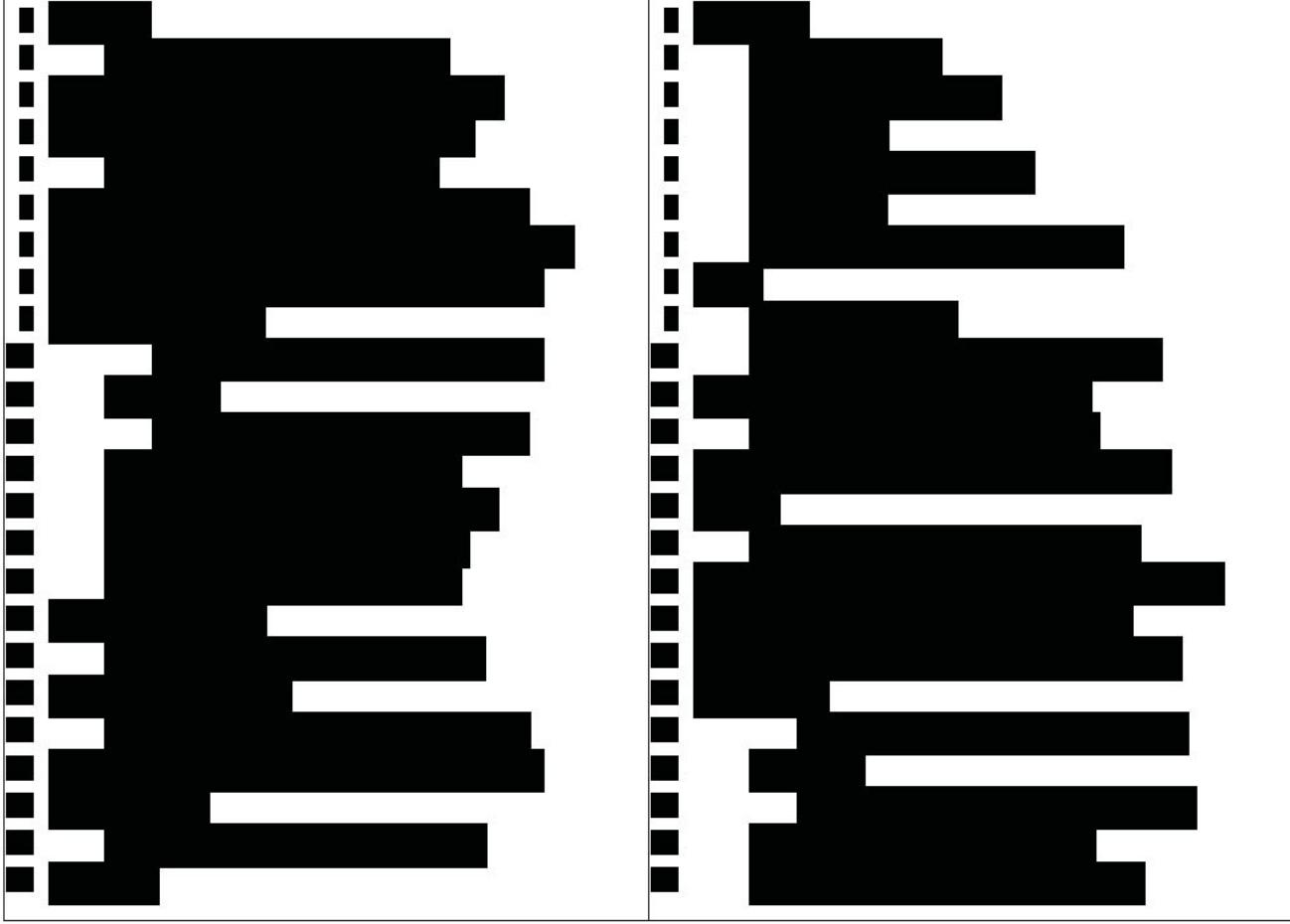
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<p>[REDACTED]</p>	<p>14 Q. You are involved in or have 15 been involved in various committees with 16 the HDA, correct? 17 A. Yes. That's correct. 18 Q. When did you first start 19 having involvement with the HDA on behalf 20 of AmerisourceBergen? 21 MS. McCLURE: Object to the 22 form. 23 THE WITNESS: I don't 24 recall. I don't recall.</p> <p>[REDACTED]</p>

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<p>1 Q. What were your 2 responsibilities on the regulatory 3 affairs committee?</p> <p>4 MS. McCLURE: Objection. 5 Assumes facts not in evidence. 6 Form.</p> <p>7 THE WITNESS: Not really any 8 distinct responsibilities. Just 9 participated in calls that they 10 had.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. How often did you do that? 13 A. I can't remember. I know 14 the calls now are, like, biweekly. I 15 don't remember what the frequency was 16 when I first participated.</p> <p>17 Q. Who else participated in the 18 calls?</p> <p>19 MS. McCLURE: Objection 20 to -- to form.</p> <p>21 THE WITNESS: Just about 22 any -- it was -- it was mostly 23 regulatory affairs counterparts 24 from within our industry. But</p>	<p>1 affairs committee calls, yeah. 2 BY MR. PIFKO: 3 Q. And then did you meet with 4 them in person ever? 5 A. Typically during their 6 annual meetings, annual distribution 7 management conference. Typically we 8 would meet sometimes during those. But 9 rarely -- rarely were they in person 10 meetings. Typically it was just the 11 phone calls.</p> <p>12 Q. What type of issues did you 13 discuss in the phone calls? 14 A. Any regulatory issues that 15 were of interest to the members. 16 Q. And what do you mean by 17 regulatory issues? 18 A. It could be ranging from 19 HAZMAT issues with DOT, OSHA issues, DEA, 20 Board of Pharmacy, any type of issues 21 that affected the members that applied to 22 the members, regulations, pending 23 regulations.</p> <p>24 Q. Are you familiar with the</p>
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<p>1 just about any member could 2 participate in the call or listen 3 in.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. Do you remember the names of 6 any specific individuals? 7 A. That are on the committee? 8 Q. Yes. 9 A. Yes. 10 Q. Can you name them? 11 A. From other companies? 12 Q. Yes. 13 A. Gosh. Steve Reardon from 14 Cardinal was. Gary Hilliard who was with 15 McKesson. Brad Pine from Smith Drug. 16 I'm trying to think if there was anybody 17 else. That's the ones that I remember. 18 George Hewson from HD Smith. 19 Q. So you had regular calls 20 with them, correct?</p> <p>21 MS. McCLURE: Objection to 22 form.</p> <p>23 THE WITNESS: Well, we 24 participated in the HDA regulatory</p>	<p>1 HDA's industry compliance guidelines? 2 A. Yes, I'm familiar with them. 3 Q. Were you involved in helping 4 put those together? 5 MS. McCLURE: Objection to 6 the form.</p> <p>7 THE WITNESS: Well, HDA put 8 those together. I participated in 9 a meeting when they were getting 10 input from their members in how to 11 develop those guidelines.</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. Just one meeting? 14 A. There may have been more 15 than one. But I just remember the one. 16 Q. Was that on the phone or in 17 person? 18 A. That was in person at HDA's 19 offices. 20 Q. So when was that? 21 A. I'm thinking probably 2008 22 sometime, or '9, sometime in that time 23 frame. 24 Q. To help your recollection,</p>

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<p>1 I'll represent to you that the guidelines 2 were first published in 2008. 3 A. Okay. 4 Q. Okay. So do you think that 5 it was around that time? 6 A. I would think so. 7 Q. Do -- were there other 8 members of the industry present at that 9 meeting? 10 A. The discussion to develop 11 them? 12 Q. Yes. 13 A. Yes, but I don't remember 14 who was there. Who was in attendance. 15 (Document marked for 16 identification as Exhibit 17 ABDC-Mays-3.) 18 (Document marked for 19 identification as Exhibit 20 ABDC-Mays-4.) 21 BY MR. PIFKO: 22 Q. I'm handing you two exhibits 23 at one time, Exhibits 4. 24 A. Thank you.</p>	<p>1 Q. Yeah, you can. I just -- 2 A. Okay. 3 Q. We don't need to sit here 4 while you are reading the whole thing. 5 Exhibit 4 is this e-mail Bates-labeled 6 ABDCMDL00295006. 7 On the second page there. 8 A. On the back? 9 Q. Yeah. 10 A. This is the e-mail chain? 11 Q. Yeah, it's an e-mail from 12 Chris to you. And he's asking if you 13 know when HDMA published the guidelines. 14 He remembers going to DC with Cardinal, 15 McKesson. 16 A. Yep. Yes. 17 Q. Does that refresh your 18 recollection about anyone who was there? 19 A. No, I mean not -- not the 20 sparse specific individuals. I would 21 assume Cardinal and McKesson would have 22 been in that meeting, because they were 23 members. 24 Q. Do you know if Chris went</p>
<p>1 Q. And Exhibit 5. 2 MR. PIFKO: You know what, I 3 skipped 3. So -- 4 MS. McCLURE: 3. 5 MR. PIFKO: -- I'm going to 6 give you 3. 7 MS. McCLURE: Okay. 8 MR. PIFKO: 4 and 3. 9 MS. McCLURE: So this is 4. 10 The single page e-mail. 11 MR. PIFKO: 4. 12 THE WITNESS: Okay. 13 BY MR. PIFKO: 14 Q. Take a minute to review 15 that. One of the documents is the 16 guideline. You don't need to sit there 17 and read the whole thing. We'll get into 18 it. If I'm asking about it and you want 19 to read it, you can. But just for right 20 now, you can look at the e-mail and the 21 attachment. 22 A. You're not going to ask 23 specific questions about the guidelines? 24 Because I'll need to read it if you are.</p>	<p>1 with you. He says, "We spent some time"? 2 A. Yes, I remember Chris and I 3 both went. 4 Q. Okay. Anyone else from 5 Amerisource go with you? 6 A. I don't think so. 7 Q. Then you write back to him 8 that the guidelines were put together in 9 October 2008 after Cardinal's DEA 10 suspension. 11 A. It sounds right. 12 Q. What do you know about 13 Cardinal's suspension in 2008? 14 A. I don't know a lot of 15 specifics. I know in general what it was 16 about. 17 Q. What do you know generally? 18 A. It was tied to their 19 distribution to, I think CVS stores in 20 Florida. Other than that I couldn't tell 21 you any specifics. 22 Q. Do you know if they entered 23 into a settlement agreement? 24 A. I think they did, but I'm</p>

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<p>1 not positive. I'm assuming they did. 2 Q. Do you know if they paid a 3 fine? 4 A. I believe they did. 5 Q. Do you have a sense of how 6 much? 7 A. It was like in 32 million, 8 something like that. I think. 9 Q. Do you remember that being 10 significant or a topic of discussion in 11 the industry? 12 A. I can't remember. I would 13 assume it was. 14 Q. Hmm? 15 A. I would -- I would think it 16 would be. 17 Q. Then this talks about 18 another one in 2012? 19 MS. McCLURE: Sorry, where 20 are you, Mark? 21 MR. PIFKO: Same document, 22 Document 4. 23 MS. McCLURE: Oh. 24 BY MR. PIFKO:</p>	<p>1 I just want to clarify for 2 the record. So, Sterling, your 3 position, and I'm -- I'm not 4 saying it's correct or incorrect. 5 I'm just trying to make sure I 6 understand your position. 7 Your position is you did not 8 have to -- 9 MR. PIFKO: The order says 10 if you're -- if you're aware of 11 the information in the document, 12 then you don't have to show it at 13 the time. You're already -- 14 you're already a covered person 15 who is allowed to see the document 16 if you're a recipient or a 17 participant in the document. That 18 provision only applies if you're 19 not a covered person. 20 MS. McCLURE: Thank you for 21 the explanation. 22 MR. PIFKO: No problem. 23 MS. McCLURE: And the 24 interruption.</p>
<p>1 Q. I can't -- the same e-mail 2 that you're saying there, "They had 3 another one in 2012." Do you see that, 4 related to Walgreens? 5 A. Yes. Yeah, I see that. 6 Q. Do you know what that one 7 was about? 8 A. Not specifically. 9 Q. Do you know it's related to 10 Walgreens? 11 A. Yeah, I remembered it was 12 related to Walgreens. 13 Q. Do you have -- oh, sorry. 14 (Document marked for 15 identification as Exhibit 16 ABDC-Mays-5.) 17 BY MR. PIFKO: 18 Q. I'm handing you what's been 19 marked as Exhibit 5. For the record it's 20 a document from Cardinal Health 21 production, Bates labeled 22 CAH_MDL2804_00865762 and 86574. 23 MS. McCLURE: I need just a 24 moment to review this, please.</p>	<p>1 But -- and you're talking 2 about the currently in effect 3 protective order for this case has 4 that exception in it? 5 MR. PIFKO: Yes. 6 MS. McCLURE: And is there 7 someone here from Cardinal? 8 MS. PETERSEN: Yes. Miranda 9 Petersen. 10 MS. McCLURE: I just want to 11 make sure that there's no dispute 12 about their ability to use this 13 document. 14 MS. PETERSEN: I haven't 15 seen the document. 16 BY MR. PIFKO: 17 Q. Exhibit 5 is an e-mail from 18 you -- 19 A. Mm-hmm. 20 Q. -- in response to a Cardinal 21 Health press release where Cardinal 22 announces that it got an injunction 23 against -- or a restraining order that 24 allowed them to resume shipments at their</p>

<p style="text-align: right;">Page 290</p> <p>1 Lakeland facility despite the DEA having 2 suspended their registration. Do you see 3 that?</p> <p>4 A. Mm-hmm, yes.</p> <p>5 Q. And you write to Steve 6 Reardon and Michael Mone and say "Nice 7 work!" Agreed?</p> <p>8 A. Agreed.</p> <p>9 Q. Why did you say that to 10 them?</p> <p>11 A. Well, because I've known 12 both of those guys personally for a long 13 time. I was just congratulating them on 14 successfully getting the restraining 15 order.</p> <p>16 Q. You were pleased that they 17 got a court to allow them to overrule a 18 DEA decision to suspend their 19 registration?</p> <p>20 A. Well, I would think --</p> <p>21 MS. McCLURE: Object to the 22 form. You can answer.</p> <p>23 THE WITNESS: I would think 24 maybe DEA has made some mistake or</p>	<p style="text-align: right;">Page 292</p> <p>1 Q. What do they do at Cardinal 2 Health?</p> <p>3 A. Steve doesn't do anything 4 there. He's retired.</p> <p>5 Q. At the time you knew them or 6 at that time.</p> <p>7 A. He was my counterpart for 8 the most part. Regulatory. I don't know 9 what his exact title was.</p> <p>10 Q. You were friendly with them?</p> <p>11 MS. McCLURE: Objection to 12 the form.</p> <p>13 THE WITNESS: Not so much 14 personal friends, but just -- just 15 associates, you know, that we have 16 known -- known each other for a 17 long time.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. And you interacted with them 20 a lot in the course of your dealings?</p> <p>21 MS. McCLURE: Objection to 22 the form.</p> <p>23 THE WITNESS: Not a lot, no.</p> <p>24 BY MR. PIFKO:</p>
<p style="text-align: right;">Page 291</p> <p>1 a judge wouldn't have put a 2 restraining order in place. So I 3 think that they -- you know, they 4 should be able to continue doing 5 business.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. You were pleased that they 8 pointed out some mistake the DEA had 9 made?</p> <p>10 MS. McCLURE: Objection to 11 the form.</p> <p>12 THE WITNESS: No, I'm just 13 pleased -- I'm just pleased for my 14 people that I knew for a long time 15 personally. I was just pleased 16 for them that they were able to 17 get some success.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. And who are Steve Reardon 20 and Michael Mone?</p> <p>21 A. Well, Steve Reardon and 22 Michael Mone work for Cardinal Health.</p> <p>23 Steve has since retired. Known him for 24 probably 20 years or so.</p>	<p style="text-align: right;">Page 293</p> <p>1 Q. Well --</p> <p>2 MS. McCLURE: We've been 3 going about an hour and a half, so 4 when you get a moment.</p> <p>5 THE WITNESS: Yeah, I -- I 6 need a potty break myself.</p> <p>7 MR. PIFKO: We are in the 8 middle of this question. So let 9 me just ask a question.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. You said they were people 12 that you knew for a long time personally.</p> <p>13 They were personal friends 14 of yours?</p> <p>15 A. Not --</p> <p>16 MS. McCLURE: Objection to 17 the form. Asked and answered.</p> <p>18 THE WITNESS: I think I 19 answered that.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. I'm asking you again.</p> <p>22 A. I don't know how you define 23 personal friend versus personal versus 24 friendly business associate. But I have</p>

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<p>1 known -- gotten to know them for -- over 2 the years, as -- as members of regulatory 3 affairs committee and meeting -- seeing 4 them in meetings and things like that. 5 But no, we don't go take family vacations 6 together.</p> <p>7 MR. PIFKO: Okay. Thank 8 you. We can take a break.</p> <p>9 MS. McCLURE: Thank you.</p> <p>10 THE VIDEOGRAPHER: We are 11 going on break. The time is 12 3:00 p.m.</p> <p>13 (Short break.)</p> <p>14 THE VIDEOGRAPHER: We are 15 going back on the record.</p> <p>16 Beginning of Media File Number 4. 17 The time is 3:18.</p> <p>18 BY MR. PIFKO:</p> <p>19 Q. Do you know what the -- the 20 outcome of the 2012 suspension order with 21 Cardinal Health was that you referred to 22 here in these exhibits?</p> <p>23 A. I don't remember distinctly, 24 no.</p>	<p>1 about --</p> <p>2 Q. Exhibit --</p> <p>3 A. Developing the guidelines.</p> <p>4 Q. Yes.</p> <p>5 A. Yes, and it seems like they 6 did a revision at some point. But I 7 don't remember when that was.</p> <p>8 Q. Okay. Yeah. I think there 9 was a later version in 2012 or something.</p> <p>10 A. Maybe a later revision --</p> <p>11 okay.</p> <p>12 Q. Says that every time 13 Cardinal gets a DEA enforcement action.</p> <p>14 I want to focus your 15 attention to ABDCMDL 295015.</p> <p>16 A. Which would be like Page 7 17 of 16?</p> <p>18 Q. Right, right.</p> <p>19 A. Okay.</p> <p>20 Q. We can use whichever page 21 you prefer.</p> <p>22 A. Okay. All right.</p> <p>23 Q. All right. You see under a 24 heading Monitoring For Suspicious Orders.</p>
<p>1 Q. Do you know if they paid a 2 fine in connection with that?</p> <p>3 A. I don't remember.</p> <p>4 Q. So let's turn to Exhibit 3, 5 the industry compliance guidelines?</p> <p>6 A. Okay.</p> <p>7 Q. For the record, Bates 8 labeled ABDCMDL00295009 through 5024.</p> <p>9 So these are -- have you 10 seen these before?</p> <p>11 A. I'm sorry?</p> <p>12 Q. Exhibit 3, the final 13 guidelines published in 2008. Have you 14 seen them before?</p> <p>15 A. I believe I have. Yes.</p> <p>16 Q. These are the best practices 17 you were talking about in -- in Exhibit 4 18 developed at the -- I'm quoting, Chris' 19 e-mail to you, the best practices that 20 HDMA ultimately sent to DEA, and that you 21 met with Cardinal and McKesson and DC to 22 discuss this, correct?</p> <p>23 A. No. Where did you get 24 meeting Cardinal? Oh, you're talking</p>	<p>1 Heading 2. Do you see that?</p> <p>2 A. I see that.</p> <p>3 Q. Okay. System design. "It 4 is recommended that a distributor develop 5 an electronic system with accompanying 6 written standard operating procedures to 7 meet the DEA's requirement in 8 Section 1301.74(b), that a distributor 9 'design and operate a system to disclose 10 to the registrant suspicious orders of 11 controlled substances.'"</p> <p>12 Do you see that?</p> <p>13 A. Mm-hmm. Excuse me.</p> <p>14 Q. Do you agree with that?</p> <p>15 MS. McCLURE: Objection to 16 the form.</p> <p>17 THE WITNESS: Give me a 18 second to read it again.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. No problem.</p> <p>21 A. I believe that's -- I 22 believe that's accurate.</p> <p>23 Q. Let's go to the next page 24 here.</p>

	Page 298	Page 300
1	A. Okay.	1 A. I believe so. I'm not sure
2	Q. Heading C, "Develop	2 the exact date.
3	Thresholds to Identify Orders of	3 Q. Up until that time, you had
4	Interest."	4 responsibilities that included diversion
5	Do you see that?	5 control, correct?
6	A. Yes, I do.	6 A. On and off during the
	[REDACTED]	7 time -- during the time period.
	[REDACTED]	8 Q. You said in 2007 you were
	[REDACTED]	9 the top person that had diversion control
	[REDACTED]	10 responsibilities, correct?
	[REDACTED]	11 A. That's correct. Yes.
	[REDACTED]	12 Q. At some point someone came
	[REDACTED]	13 in and you didn't have diversion control
	[REDACTED]	14 responsibilities?
	[REDACTED]	15 A. That's correct.
	[REDACTED]	16 Q. Who was that?
	[REDACTED]	17 A. Well, when Ed Hazewski was
	[REDACTED]	18 put in charge of the diversion control
	[REDACTED]	19 program. He reported directly to Chris.
	[REDACTED]	20 Q. Do you know when that was?
	[REDACTED]	21 A. Sometime in 2008, or '9, I
	[REDACTED]	22 believe.
	[REDACTED]	23 Q. And at that time you had no
	[REDACTED]	24 responsibilities for diversion control
	Page 299	Page 301
	[REDACTED]	1 issues?
	[REDACTED]	2 A. No direct -- no direct
	[REDACTED]	3 responsibilities, no.
	[REDACTED]	4 Q. But then you reassumed them
	[REDACTED]	5 at some point?
	[REDACTED]	6 A. At some point, Chris had Ed
	[REDACTED]	7 start reporting to me.
	[REDACTED]	8 Q. And when was that?
	[REDACTED]	9 A. I think it was around 2012.
	[REDACTED]	10 Q. Did Chris tell you why he
	[REDACTED]	11 wanted Ed to start reporting to you
	[REDACTED]	12 instead of him?
	[REDACTED]	13 A. No, he didn't or I don't
	[REDACTED]	14 remember why.
	[REDACTED]	15 Q. Did Ed tell you why?
	[REDACTED]	16 A. I don't think he did. I
	[REDACTED]	17 don't recall why.
	[REDACTED]	18 Q. So from 2012, at that point
	[REDACTED]	19 in 2012 to 2014, your involvement with
	[REDACTED]	20 diversion control was overseeing Ed?
	[REDACTED]	21 A. Right.
	[REDACTED]	22 Q. Anything else?
	[REDACTED]	23 A. That's correct. That was
	[REDACTED]	24 pretty much it. He just reported up to

<p>1 me. But he ran the program.</p> <p>11 Q. If you look on this -- Page 12 8 of this document.</p> <p>13 A. Okay. I'm there.</p> <p>14 Q. It's talking about 15 thresholds for identifying orders of 16 interest. Do you see that?</p> <p>17 A. I do.</p> <p>18 Q. First paragraph. 19 Then, second paragraph says, 20 "When evaluating thresholds, orders of 21 unusual size and unusual frequency can be 22 used to signal that an order may need 23 further review." 24 Do you see that?</p>	<p>Page 302</p> <p>1 BY MR. PIFKO: 2 Q. But this says when 3 evaluating threshold, orders of unusual 4 size and unusual frequency can be used to 5 signal that an order may need further 6 review. Do you see that?</p> <p>7 MS. McCLURE: Objection to 8 the form.</p> <p>9 THE WITNESS: I can't really 10 interpret what HDMA put together. 11 It's not -- it's not my document.</p> <p>12 BY MR. PIFKO: 13 Q. Okay. Well, let's talk 14 about you. You said that you are 15 familiar that Amerisource has used the 16 term "order of interest," correct?</p> <p>17 A. I'm not sure if it's 18 officially. It's just "order of 19 interest" is an easy way to say it's in 20 review. Just another way of saying it's 21 in review.</p> <p>22 Q. What criteria does 23 AmerisourceBergen use to determine 24 whether an order is an order of interest?</p>	<p>Page 304</p> <p>1 MS. McCLURE: Objection. 2 Asked and answered.</p> <p>3 THE WITNESS: Which time 4 period?</p> <p>5 MS. McCLURE: You can 6 answer.</p> <p>7 BY MR. PIFKO: 8 Q. At any time period. 9 A. I can't tell -- I can't 10 speak to how it's determined today. 11 During this time period, if 12 an order hit the threshold, it was -- it 13 was considered to be in review or an 14 order of interest.</p> <p>15 Q. And an order hitting the 16 threshold is an order that exceeds what 17 was the three times the average, right?</p> <p>18 MS. McCLURE: Objection to 19 the form.</p> <p>20 You can answer.</p> <p>21 THE WITNESS: Excuse me. 22 It would -- it would be an 23 order that exceeded the threshold 24 for that customer for whatever</p>
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<p>1 peer group they are in and size 2 they are. 3 BY MR. PIFKO: 4 Q. And that's an order of 5 unusual size, because it exceeds the 6 average, correct? 7 MS. McCLURE: Objection to 8 the form. 9 THE WITNESS: Those 10 thresholds were -- ask the 11 question again. 12 BY MR. PIFKO: 13 Q. An order that exceeds its 14 threshold is an order of unusual size. 15 That's the point of the threshold. It's 16 an average, and you're saying it's three 17 times more, correct? 18 A. It could be. It could be. 19 MS. McCLURE: Objection to 20 the form. 21 BY MR. PIFKO: 22 Q. Do you have an understanding 23 that AmerisourceBergen under any policies 24 that AmerisourceBergen would halt the</p>	<p>1 order that is suspicious? 2 A. I'm not familiar with what's 3 in the customers' contracts. 4 Q. Have you ever discussed that 5 with anybody? 6 A. As far as what would be in 7 the contract? 8 Q. And whether you're allowed 9 to halt the shipment of a suspicious 10 order. 11 A. Well, that's what we did. 12 If we reported an order as suspicious, it 13 was halted. 14 Q. Have you ever heard pushback 15 from a customer, you're not allowed to do 16 that? 17 A. No. I can't remember ever 18 having a customer telling me that we're 19 not allowed to do that. 20 Q. How about if an order is in 21 review? Have you ever heard a customer 22 complain that an order is in review and 23 they're frustrated it's not being shipped 24 while it's in review?</p>
<p>1 shipment of an order of interest? 2 A. Would we halt the shipment 3 of -- 4 Q. You don't ship an order 5 because it's an order of interest? 6 A. If it's an order of 7 interest, it's in review and during this 8 period it would be held until that order 9 is adjudicated. 10 Q. What I'm trying to 11 understand is, is it -- at any time was 12 it AmerisourceBergen's policy that it 13 could refuse or reject a shipment that 14 was categorized as an order of interest? 15 MS. McCLURE: Objection to 16 the form. 17 THE WITNESS: I'm not sure. 18 I can't answer that. 19 BY MR. PIFKO: 20 Q. You don't know either way? 21 A. I don't know either way. 22 Q. In AmerisourceBergen's 23 contracts with its customers, does it 24 have a right to halt the shipment of an</p>	<p>1 A. Yes. 2 Q. Yes? 3 A. Yes. Customers complain 4 frequently. 5 Q. What do you tell them? 6 A. It doesn't -- 7 MS. McCLURE: Objection to 8 the form. 9 THE WITNESS: It depends on 10 the circumstance. 11 BY MR. PIFKO: 12 Q. Does the company have a 13 policy about communicating to customers 14 when their orders are held in review? 15 MS. McCLURE: Objection to 16 the form. 17 THE WITNESS: I don't know 18 what the policy is. 19 BY MR. PIFKO: 20 Q. Do you think they have one? 21 MS. McCLURE: Objection to 22 the form. 23 THE WITNESS: I don't know. 24 BY MR. PIFKO:</p>

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	<p>1 Q. You're not familiar with it?</p> <p>2 A. I don't know.</p> <p>3 Q. Do you know if there's any</p> <p>4 training to employees about whether --</p> <p>5 the extent to which they're allowed to</p> <p>6 communicate with customers when their</p> <p>7 orders are held in review?</p> <p>8 MS. McCLURE: Objection to</p> <p>9 the form.</p> <p>10 THE WITNESS: Don't know.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. Looking at Page 9.</p> <p>13 A. Okay.</p> <p>14 Q. Under Heading 3.</p> <p>15 A. Okay.</p> <p>16 Q. "Suspend/stop an order of</p> <p>17 interest shipment."</p> <p>18 Do you see that?</p> <p>19 A. Yeah, I see it.</p> <p>20 Q. Do you recall discussing the</p> <p>21 concept of orders of interest when you</p> <p>22 met in D.C. with the HDA and the other</p> <p>23 members of industry to discuss these</p> <p>24 guidelines?</p>	<p>1 Q. You don't recall either way?</p> <p>2 A. I don't recall anyone else</p> <p>3 discussing their programs other than us.</p> <p>4 Q. But you know you did?</p> <p>5 A. Yeah.</p> <p>6 Q. And that was in their</p> <p>7 presence?</p> <p>8 A. If they were there it was in</p> <p>9 their presence, yes.</p> <p>10 Q. When you attend an HDA</p> <p>11 meeting, is there a sign-in sheet?</p> <p>12 MS. McCLURE: Objection to</p> <p>13 the form.</p> <p>14 THE WITNESS: No. Typically</p> <p>15 not, no.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Someone circulate meeting</p> <p>18 minutes after the meeting?</p> <p>19 A. I believe they do.</p> <p>20 Q. Does it list the attendees?</p> <p>21 A. Which type of -- let me ask</p> <p>22 you a question. Which type of HDA</p> <p>23 meeting are we talking about?</p> <p>24 Q. A regulatory --</p>
	<p>1 A. No, I don't remember</p> <p>2 specifically discussing that.</p> <p>3 Q. What do you remember</p> <p>4 discussing?</p> <p>5 A. I don't remember any</p> <p>6 specifics about the meeting. I just</p> <p>7 remember that we were discussing HDMA</p> <p>8 putting those guidelines together.</p> <p>9 Q. Did you discuss what</p> <p>10 AmerisourceBergen's OMP practices were at</p> <p>11 that meeting?</p> <p>12 A. In general, yes, we did.</p> <p>13 Q. Did the other members --</p> <p>14 well, let me just -- did the</p> <p>15 representatives from Cardinal explain</p> <p>16 what their system was at that meeting?</p> <p>17 A. I don't recall that they</p> <p>18 did.</p> <p>19 Q. How about McKesson. Did</p> <p>20 anyone from McKesson describe their</p> <p>21 suspicious order monitoring program at</p> <p>22 that meeting?</p> <p>23 A. No, I don't recall that they</p> <p>24 did.</p>	<p>1 A. A conference or --</p> <p>2 Q. A regulatory affairs</p> <p>3 meeting.</p> <p>4 MS. McCLURE: Objection to</p> <p>5 the form.</p> <p>6 THE WITNESS: They are</p> <p>7 generally conference calls and</p> <p>8 they take a rollcall and really</p> <p>9 all they keep up with is how many</p> <p>10 companies, which companies are on</p> <p>11 the call, not so much which</p> <p>12 individuals.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. And they --</p> <p>15 A. From what I can tell the way</p> <p>16 they take rollcall.</p> <p>17 Q. They circulate meeting</p> <p>18 minutes after those calls?</p> <p>19 A. Not normally, no.</p> <p>20 Q. And then from time to time</p> <p>21 there's in-person meetings?</p> <p>22 A. Rarely for regulatory</p> <p>23 affairs committee.</p> <p>24 Q. Do they circulate meeting</p>

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<p>1 minutes of those?</p> <p>2 A. Not normally.</p> <p>3 Q. But they have?</p> <p>4 A. I'm trying to remember. I</p> <p>5 don't think they do. I don't remember</p> <p>6 ever getting minutes from a regulatory</p> <p>7 affairs committee meeting.</p> <p>8 Q. How about from this industry</p> <p>9 compliance discussion. Do you know if</p> <p>10 there was any notes or anything</p> <p>11 circulated to anybody who participated</p> <p>12 afterwards?</p> <p>13 MS. McCLURE: Objection to</p> <p>14 form.</p> <p>15 THE WITNESS: No. Not that</p> <p>16 I recall.</p> <p>17 BY MR. PIFKO:</p> <p>18 Q. Did you serve on any other</p> <p>19 committees besides the regulatory affairs</p> <p>20 committee?</p> <p>21 A. As far as serving, no. I</p> <p>22 participated in other committees, but</p> <p>23 just to listen in on their calls.</p> <p>24 Q. What other committees?</p>	<p>1 BY MR. PIFKO:</p> <p>2 Q. Did -- did everybody review</p> <p>3 drafts of the guidelines and ultimately</p> <p>4 weigh in on them?</p> <p>5 A. I can't say.</p> <p>6 MS. McCLURE: Objection to</p> <p>7 the form.</p> <p>8 THE WITNESS: I can't say</p> <p>9 for sure.</p> <p>10 BY MR. PIFKO:</p> <p>11 Q. Did you take any notes of</p> <p>12 your meeting --</p> <p>13 A. No.</p> <p>14 Q. -- concerning the</p> <p>15 guidelines?</p> <p>16 A. No.</p> <p>17 Q. Do you know if Mr. Zimmerman</p> <p>18 did?</p> <p>19 MS. McCLURE: Objection to</p> <p>20 the form.</p> <p>21 THE WITNESS: Don't know.</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. Did the two of you discuss</p> <p>24 the guidelines after the meeting?</p>
<p>1 A. Like federal government</p> <p>2 affairs. State government affairs.</p> <p>3 Q. Any others?</p> <p>4 A. That's it that I can think</p> <p>5 of.</p> <p>6 Q. Have you attended meetings</p> <p>7 in person for other committees?</p> <p>8 A. I filled in on a state</p> <p>9 government affairs in-person meeting for</p> <p>10 our state government affairs person</p> <p>11 because she couldn't make the meeting and</p> <p>12 she asked me to fill in for her.</p> <p>13 Q. Who was that?</p> <p>14 A. Her name was Julie Eddy,</p> <p>15 E-D-D-Y.</p> <p>16 Q. Do you recall there being</p> <p>17 any sort of final outcome when you</p> <p>18 attended this meeting in D.C. concerning</p> <p>19 the industry compliance guidelines?</p> <p>20 MS. McCLURE: Objection to</p> <p>21 the form.</p> <p>22 THE WITNESS: I don't -- as</p> <p>23 far as the outcome? I -- other</p> <p>24 than them creating the guidelines.</p>	<p>1 A. Well, the guidelines weren't</p> <p>2 present at the meeting.</p> <p>3 Q. The idea of the guidelines?</p> <p>4 A. Well, we discussed it before</p> <p>5 and after the meeting. We knew what the</p> <p>6 purpose of the meeting was.</p> <p>7 Q. What did you think about the</p> <p>8 idea of having industry compliance</p> <p>9 guidelines?</p> <p>10 MS. McCLURE: Objection to</p> <p>11 the form.</p> <p>12 THE WITNESS: What did I</p> <p>13 think about the idea? I think</p> <p>14 it's good for the rest of the</p> <p>15 industry to have programs.</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. What did you and</p> <p>18 Mr. Zimmerman discuss about the</p> <p>19 guidelines after the meeting?</p> <p>20 A. Nothing specifically.</p> <p>21 Q. How about before?</p> <p>22 A. Just whether or not they</p> <p>23 put -- you know, follow what -- what we</p> <p>24 had explained we did.</p>

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<p>1 Q. You wanted the guidelines to 2 be consistent with what you were doing?</p> <p>3 MS. McCLURE: Objection to 4 the form.</p> <p>5 THE WITNESS: No, I'm not 6 saying that. I just think that 7 DEA asked us to present our 8 program twice to the industry 9 conference. So we -- we kind of 10 made the assumption that the rest 11 of the industry wanted to try to 12 follow our guidelines as closely 13 as possible.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. Do you believe that they do?</p> <p>16 A. Don't know. I don't know 17 what they do.</p> <p>18 Q. How about the HDMA 19 guidelines, do you feel like they follow 20 your policies?</p> <p>21 A. I think it's modeled after 22 them. I'm not sure it exactly follows 23 it. It's been a long time since I've 24 gone through it and read it.</p>	<p>1 like a call-in center?</p> <p>2 A. It's more like -- yeah, like 3 customer service. They would take calls 4 from customers.</p> <p>5 Q. Do you know if they are 6 trained on how to field an inquiry from a 7 customer about an order that's held?</p> <p>8 A. They may have been, but I 9 don't know any specifics.</p> <p>10 Q. Let's talk about the -- the 11 role of a sales associate in preventing 12 diversion.</p> <p>13 A. Okay.</p> <p>14 Q. Do sales associates have any 15 job responsibilities in preventing 16 diversion? And let me -- let me put a 17 time frame on that to make it a better 18 question.</p> <p>19 Prior to the new OMP system 20 that you put in place in 2007, did sales 21 associates have any role in assisting the 22 company in preventing diversion?</p> <p>23 MS. McCLURE: Objection to 24 the form.</p>
<p style="text-align: center;">Page 319</p> <p>1 Q. I mentioned earlier about 2 the idea of communicating with customers 3 about a canceled order.</p> <p>4 A. Mm-hmm.</p> <p>5 Q. Is there a specific person 6 whose job it is to communicate with 7 customers about canceled order?</p> <p>8 MS. McCLURE: Objection to 9 the form.</p> <p>10 THE WITNESS: From our 11 department?</p> <p>12 BY MR. PIFKO:</p> <p>13 Q. Anyone in the company --</p> <p>14 MS. McCLURE: Objection.</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. -- that you're aware of.</p> <p>17 A. I wouldn't know who they 18 would talk to.</p> <p>19 Q. Are the sales associates the 20 first line of communications with 21 customers?</p> <p>22 A. Probably customer care.</p> <p>23 Or -- or the sales associates.</p> <p>24 Q. What customer care, is that</p>	<p style="text-align: center;">Page 321</p> <p>1 THE WITNESS: The sales 2 associates are -- are required to 3 comply with all the laws and 4 regulations. And they were asked 5 prior to the suspension to -- to 6 do site visits, due diligence 7 visits of customers.</p> <p>8 BY MR. PIFKO:</p> <p>9 Q. What were they supposed to 10 look for at these visits?</p> <p>11 A. They had a questionnaire 12 that they would fill out with the 13 customers and there were certain things 14 that they were told to look for, like, 15 you know, FedEx, or boxes stacked up in 16 the back, and there were other signs of 17 internet pharmacy that we talked about 18 briefly.</p> <p>19 Q. Anything else?</p> <p>20 MS. McCLURE: Objection to 21 the form.</p> <p>22 THE WITNESS: I can't think 23 of anything right offhand.</p> <p>24 BY MR. PIFKO:</p>

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<p>1 Q. Are you familiar with the 2 idea of red flags of diversion? Have you 3 ever heard that term before? 4 A. Yes, yes. 5 Q. What about things like a 6 pharmacy that only takes cash, is that a 7 red flag of diversion? 8 A. Yes. That's a red flag. 9 Q. Are sales associates 10 supposed to look out for that? 11 A. I believe so. 12 Q. In the pre-2007 time period, 13 were they trained to look out for that? 14 A. I can't remember when those 15 red flag -- red flags came out as far as 16 when we started using those to train 17 salespeople. I don't remember the time 18 frame, but they -- at some point they 19 were trained that that was a red flag to 20 look for. 21 Q. You don't know if they were 22 trained for that prior to 2007? 23 A. No. 24 Q. Do you know if sales</p>	<p>1 A. I'm sorry? 2 Q. You don't know either way? 3 A. No, I don't. 4 Q. As someone who is the 5 highest person in the company in 6 diversion control for many years, do you 7 think it's appropriate for salespeople to 8 have performance tied to sales -- 9 MS. McCLURE: Objection. 10 BY MR. PIFKO: 11 Q. -- of controlled substances? 12 MS. McCLURE: Objection to 13 the form of the question. 14 THE WITNESS: Okay. That's 15 not my area of responsibilities as 16 far as determining how they are 17 paid and compensated. 18 As long as -- as long as 19 they comply with the laws and 20 regulations. That's not my role. 21 BY MR. PIFKO: 22 Q. I'm not asking if it's your 23 role. I'm asking -- you had a role. You 24 were the top person responsible for</p>
<p style="text-align: center;">Page 323</p> <p>1 associates were paid on commission based 2 on sales that the customers would make or 3 purchase? 4 A. My -- 5 MS. McCLURE: Objection to 6 the form. 7 THE WITNESS: My 8 understanding is they are not paid 9 on commission anymore. Not for 10 years. 11 BY MR. PIFKO: 12 Q. All right. How about in 13 2007 -- prior to 2007, before? 14 A. Even then. It's been years 15 since they were paid commission, from 16 what I understand. 17 Q. Do you have any kind of 18 sense of whether their performance was 19 evaluated based on increasing sales or 20 meeting sales targets? 21 A. I have no knowledge of how 22 their -- what their compensation is based 23 on. 24 Q. You don't know either way?</p>	<p style="text-align: center;">Page 325</p> <p>1 diversion control at the company for many 2 years. 3 I'm asking you if, in your 4 experience, you think it's appropriate to 5 have someone have their -- their 6 performance of their job measured by how 7 much controlled substances they sell? 8 MS. McCLURE: Objection to 9 the form of the question. 10 THE WITNESS: I don't think 11 that's the case with our 12 salespeople, that I know of. 13 BY MR. PIFKO: 14 Q. Do you think it's 15 appropriate? 16 MS. McCLURE: Objection to 17 the form of the question. 18 THE WITNESS: I guess it 19 depends on what context you're 20 asking. Just generally to sell 21 more controls, I wouldn't -- I 22 would not think that would be 23 appropriate. 24 BY MR. PIFKO:</p>

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<p>1 Q. Why not?</p> <p>2 A. I'm not -- I'm not sure that</p> <p>3 that's, you know -- I wouldn't think</p> <p>4 that's a good practice, especially once</p> <p>5 controls are a very small percentage of</p> <p>6 what we distribute.</p> <p>7 Q. Why wouldn't you think</p> <p>8 that's a good practice?</p> <p>9 A. To be compensated for</p> <p>10 selling more controls?</p> <p>11 Q. Yeah.</p> <p>12 A. I just think it would put</p> <p>13 more controls -- it would be encouraging</p> <p>14 customers to buy more controls than they</p> <p>15 need possibly. I don't -- I don't know</p> <p>16 why they would be.</p> <p>17 Q. Right. And so you wouldn't</p> <p>18 want any policies at the company that</p> <p>19 would encourage customers to buy more</p> <p>20 controls than they need, right?</p> <p>21 MS. McCLURE: Objection to</p> <p>22 the form.</p> <p>23 THE WITNESS: Yeah, I</p> <p>24 wouldn't want to encourage</p>	<p>1 consequences are and what their</p> <p>2 responsibilities are.</p> <p>3 BY MR. PIFKO:</p> <p>4 Q. What's the difference?</p> <p>5 MS. McCLURE: Objection to</p> <p>6 the form.</p> <p>7 THE WITNESS: The difference</p> <p>8 in what?</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. Keeping them out of trouble</p> <p>11 versus guiding them.</p> <p>12 A. Well, from my experience,</p> <p>13 some pharmacists are fairly ignorant of</p> <p>14 what their responsibilities are. And so</p> <p>15 we've tried -- you know, we've tried over</p> <p>16 the years to educate them as much as we</p> <p>17 could, as far as what their corresponding</p> <p>18 responsibilities are.</p> <p>19 Q. You wouldn't want to tell</p> <p>20 them to change their ordering practices</p> <p>21 in a way that would allow them to order</p> <p>22 controls without getting in trouble?</p> <p>23 A. No.</p> <p>24 MS. McCLURE: Objection to</p>
<p style="text-align: center;">Page 327</p> <p>1 customers to buy more controls.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. What about -- do you think</p> <p>4 it's appropriate to encourage customers</p> <p>5 to manipulate their ordering behavior to</p> <p>6 circumvent the order monitoring program?</p> <p>7 MS. McCLURE: Objection to</p> <p>8 the form.</p> <p>9 THE WITNESS: No, I wouldn't</p> <p>10 want them to try to circumvent the</p> <p>11 program at all. I wouldn't want</p> <p>12 to help them encourage it.</p> <p>13 BY MR. PIFKO:</p> <p>14 Q. Would you want to guide</p> <p>15 customers in any way to help them avoid</p> <p>16 being the subject of regulatory activity</p> <p>17 in connection with controlled substances</p> <p>18 purchases?</p> <p>19 MS. McCLURE: Objection to</p> <p>20 the form.</p> <p>21 THE WITNESS: Only to keep</p> <p>22 them out of trouble. Not to guide</p> <p>23 them to circumvent anything.</p> <p>24 Maybe to educate them on what the</p>	<p style="text-align: center;">Page 329</p> <p>1 the form.</p> <p>2 BY MR. PIFKO:</p> <p>3 Q. A quote here from David May,</p> <p>4 I want to read to you.</p> <p>5 He testified: "I don't</p> <p>6 believe our customers need to know some</p> <p>7 of the proprietary information that's</p> <p>8 sensitive around the program."</p> <p>9 He's talking about the order</p> <p>10 monitoring program.</p> <p>11 "And again, the reason being</p> <p>12 is, if there was a customer that wanted</p> <p>13 to defeat it, we want -- to the extent</p> <p>14 possible that we can prevent that from</p> <p>15 happening, we want to do that."</p> <p>16 MS. McCLURE: Continuing</p> <p>17 objection to putting up other</p> <p>18 witness's testimony without</p> <p>19 context in front of this witness.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Do you agree that you want</p> <p>22 to prevent customers from being aware of</p> <p>23 how the order monitoring program works so</p> <p>24 that they can't defeat it?</p>

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<p>1 MS. McCLURE: Objection to 2 the form.</p> <p>3 THE WITNESS: I -- I agree 4 with David's comments, his 5 testimony here.</p> <p>6 (Document marked for 7 identification as Exhibit 8 ABDC-Mays-6.)</p> <p>9 BY MR. PIFKO:</p> <p>10 Q. I'm giving you what's been 11 marked as Exhibit 6 and a document that 12 was attached to it, Exhibit 7.</p> <p>13 (Document marked for 14 identification as Exhibit 15 ABDC-Mays-7.)</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. For the record, Exhibit 6 is 18 ABDCMDL00288025, and Exhibit 7 is 19 ABDCMDL00288026.</p> <p>20 Take a moment to review that 21 and let me know when you're done.</p> <p>22 A. Okay. I've reviewed them.</p> <p>23 Q. Have you seen this document 24 before?</p>	<p>1 could be incorrect.</p> <p>2 MR. PIFKO: I didn't say 3 that.</p> <p>4 BY MR. PIFKO:</p> <p>5 Q. I'm also handing you --</p> <p>6 A. That's what I heard you say 7 too. A memo that was sent out to 8 customers.</p> <p>9 Q. I said there was a memo sent 10 out to customers.</p> <p>11 A. Oh. Not one of these?</p> <p>12 (Document marked for 13 identification as Exhibit 14 ABDC-Mays-8.)</p> <p>15 BY MR. PIFKO:</p> <p>16 Q. I've also handed you 17 Exhibit 8 which is ABC --</p> <p>18 ABDCMDL00288028.</p> <p>19 MS. McCLURE: Is there a 20 question pending or are you asking 21 him to --</p> <p>22 BY MR. PIFKO:</p> <p>23 Q. I want you to review -- 24 review Exhibit 8 as well. And I meant to</p>
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<p>1 A. I don't recall either one of 2 them. It looks like I was copied on one 3 of them.</p> <p>4 Q. Who is James Rice?</p> <p>5 A. I'm not sure he's still in 6 that role, manager buying groups, 7 community & specialty pharmacy.</p> <p>8 Q. Do you remember discussing 9 this issue with people?</p> <p>10 A. Tell me what you think the 11 issue is.</p> <p>17 Do you see that?</p> <p>18 MS. McCLURE: Objection to 19 form.</p> <p>20 THE WITNESS: No. I -- go 21 ahead.</p> <p>22 MS. McCLURE: Did you just 23 characterize this as a document 24 that was sent to customers? I</p>	<p>1 hand that to you originally, but I didn't 2 realize it wasn't in the pile.</p> <p>3 MS. McCLURE: Okay. He 4 wants you to read 8.</p> <p>5 BY MR. PIFKO:</p> <p>6 Q. You've got three documents.</p> <p>7 A. Okay. Okay.</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p>

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Page 342	Page 344
[Redacted content from Page 342]	[Redacted content from Page 344]

[REDACTED]	Page 346	Page 348
[REDACTED]	1 A. No. I don't remember it. 2 Q. The first, Exhibit 9, is an 3 e-mail from Ed Hazewski to you dated 4 June 17, 2013. 5 A. Yes, I see it. [REDACTED]	[REDACTED]

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[REDACTED]	[REDACTED]
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9 Q. Earlier you said, from your
10 experience, some pharmacists are fairly
11 ignorant of what their responsibilities
12 are. Do you recall that?

13 A. Mm-hmm.

14 Q. What experience --

15 A. I said some. Not all.

16 Q. What experience do you have
17 about pharmacists being ignorant of their
18 responsibilities?

19 A. On the experience of some of
20 my visits to some pharmacies, asking
21 questions and getting the answers that I
22 got.

23 Q. What kind of questions did
24 you ask and answers that you get that

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<p>1 made you think they were ignorant of 2 their responsibilities? 3 A. Just some of the statements 4 that some would make about, if the doctor 5 writes it, then I have to fill it. You 6 know, who am I to question the doctor, 7 things like that. They have a -- it's in 8 the regulations, they have a 9 corresponding responsibility.</p> <p>10 Q. They can question that -- 11 the doctor?</p> <p>12 A. Absolutely.</p> <p>13 Q. They don't have to fill 14 every prescription that's presented to 15 them?</p> <p>16 A. No, they do not.</p> <p>17 Q. Did you do anything to 18 educate customers about those -- those 19 regulations?</p> <p>20 A. Yes. During -- during those 21 visits to certain pharmacies, and also we 22 did some training at what they call 23 cluster meetings.</p> <p>24 Q. What's a cluster meeting?</p>	<p>1 MS. McCLURE: Objection to 2 the form.</p> <p>3 THE WITNESS: Report the 4 actual pharmacy to the DEA? At 5 one time we reported pharmacies to 6 the DEA that we had determined 7 that we were going to stop doing 8 business with, that we were going 9 to cut off. We would report those 10 to DEA.</p> <p>11 BY MR. PIFKO:</p> <p>12 Q. When was that?</p> <p>13 A. There was a period in, I 14 think it was between -- after 2007, DEA 15 had actually encouraged different members 16 of the industry to report to DEA 17 customers that they had cut off. And the 18 DEA would send an e-mail out to the other 19 distributors to tell them that this 20 customer had been cut off by another 21 distributor.</p> <p>22 Q. And what's the idea there?</p> <p>23 A. I think that got stopped at 24 some point.</p>
<p>1 A. Its customers are -- it's a 2 group of retail pharmacy customers that 3 are part of one of the programs, one of 4 our corporate programs. And they would 5 have what they call cluster meetings, and 6 they would discuss a lot of things and 7 maybe talk about programs and things like 8 that. And we were -- I know I was 9 invited to present to some customers on a 10 couple of occasions on the whole 11 diversion control issue and try to 12 educate them on their responsibilities.</p> <p>13 Q. Do you remember any specific 14 pharmacies who fit in this category?</p> <p>15 A. No. Most of the ones I did 16 were in Florida. I think a couple 17 that -- the couple that I did were in 18 Florida.</p> <p>19 Q. Did you ever witness any of 20 these pharmacies filling questionable 21 prescriptions?</p> <p>22 A. No. No.</p> <p>23 Q. Did you ever report any of 24 them to the DEA?</p>	<p>1 Q. Do you have an understanding 2 of why they were doing that?</p> <p>3 A. Well, I think -- I think it 4 probably is some people at DEA don't have 5 a real good understanding of antitrust 6 laws and things like that. And I think 7 they were trying to, you know, kind of 8 blacklist pharmacies to keep other 9 distributors -- because what was 10 happening, one distributor would cut a 11 pharmacy off, they would just open up an 12 account with another one. I think DEA 13 was trying to -- I think DEA was trying 14 to prevent that as much as they could.</p> <p>15 Q. Do you recall the names of 16 any pharmacies that you reported to the 17 DEA?</p> <p>18 MS. McCLURE: Objection to 19 the form.</p> <p>20 THE WITNESS: There's been 21 several, yeah, I just don't know 22 specifics. We had a couple. I 23 remember a few.</p> <p>24 I'm going to grab a glass of</p>
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<p>1 water while you're doing that.</p> <p>2 MR. PIFKO: Do you want to</p> <p>3 take a quick -- we don't have to</p> <p>4 all leave the room. We can go off</p> <p>5 the record for five minutes.</p> <p>6 MS. McCLURE: Yeah, let's</p> <p>7 take a five-minute.</p> <p>8 THE VIDEOGRAPHER: Going off</p> <p>9 the record. The time is 4:27.</p> <p>10 (Short break.)</p> <p>11 THE VIDEOGRAPHER: Back on</p> <p>12 the record. Beginning Media File</p> <p>13 Number 5. The time is 4:45.</p> <p>14 BY MR. PIFKO:</p> <p>15 Q. I'm handing you what's</p> <p>16 marked as Exhibit 12.</p> <p>17 (Document marked for</p> <p>18 identification as Exhibit</p> <p>19 ABDC-Mays-12.)</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. Document Bates-labeled --</p> <p>22 MS. McCLURE: What was 11?</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. ABDCMDL00275491-2.</p>	<p>1 congressional attention." It's dated</p> <p>2 March 14, 2017.</p> <p>3 Take a moment to review it</p> <p>4 and let me know when you're done.</p> <p>5 A. Okay.</p> <p>6 Q. So this is an e-mail</p> <p>7 describing some lawsuits about the opioid</p> <p>8 crisis. And you reply: "I guess if all</p> <p>9 the distributors stopped shipping</p> <p>10 controlled substances into West Virginia</p> <p>11 the problem would be solved, correct?"</p> <p>12 Do you see that?</p> <p>13 A. Yeah, I see it.</p> <p>14 Q. Do you agree that if</p> <p>15 distributors stop selling controlled</p> <p>16 substances into West Virginia, the opioid</p> <p>17 crisis there would have been stopped?</p> <p>18 MS. McCLURE: Objection.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MR. PIFKO:</p> <p>21 Q. What did you mean by this?</p> <p>22 A. It was just a snarky</p> <p>23 comment.</p> <p>24 Q. Do you think the opioid</p>
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<p>1 MS. McCLURE: Did we skip 11</p> <p>2 or am I --</p> <p>3 MR. PIFKO: No, it's</p> <p>4 hardly --</p> <p>5 MS. McCLURE: No, I'm</p> <p>6 just --</p> <p>7 THE WITNESS: There's not an</p> <p>8 11. Maybe that's the one that you</p> <p>9 sent to be printed. Is that going</p> <p>10 to be 11?</p> <p>11 MR. PIFKO: I don't know</p> <p>12 where 11's sticker is. It doesn't</p> <p>13 matter. This one's 12. We'll</p> <p>14 figure it out.</p> <p>15 MS. McCLURE: Okay. Well,</p> <p>16 for the record, I don't believe</p> <p>17 there was an 11. So let's go to</p> <p>18 12.</p> <p>19 BY MR. PIFKO:</p> <p>20 Q. It's an e-mail from you to</p> <p>21 Chris Zimmerman, forwarding something</p> <p>22 with the subject, "More West Virginia</p> <p>23 counties target distributors in opioid</p> <p>24 crisis; related media likely to get</p>	<p>1 crisis was a joke?</p> <p>2 A. No, I don't at all.</p> <p>3 Q. Apparently you think it's</p> <p>4 worth making snarky comments about with</p> <p>5 your colleagues?</p> <p>6 A. No.</p> <p>7 Q. You did here?</p> <p>8 A. Yeah, it was, yeah. It</p> <p>9 was -- it was an inappropriate snarky</p> <p>10 comment out of frustration that we were</p> <p>11 getting sued by all these people. Yeah.</p> <p>12 Q. Why were you frustrated --</p> <p>13 A. By distributing</p> <p>14 pharmaceuticals into the state.</p> <p>15 Q. Why were you frustrated?</p> <p>16 A. Because I don't think we are</p> <p>17 guilty of anything. It's a little</p> <p>18 frustrating to be getting sued by all</p> <p>19 these counties --</p> <p>20 Q. Do you think that --</p> <p>21 A. -- and cities and so forth,</p> <p>22 and -- and we haven't done anything wrong</p> <p>23 in my opinion.</p> <p>24 Q. Do you think that</p>

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<p>1 AmerisourceBergen as a distributor had 2 any role in the opioid crisis?</p> <p>3 MS. McCLURE: Objection to 4 the form.</p> <p>5 THE WITNESS: No.</p> <p>6 BY MR. PIFKO:</p> <p>7 Q. Did you sell pills into West 8 Virginia?</p> <p>9 A. We distribute to pharmacies 10 and customers in West Virginia, yes.</p> <p>11 Q. You don't think any of the 12 sales that you made contributed to the 13 epidemic?</p> <p>14 A. I don't know if they did or 15 not.</p> <p>16 Q. Between you and 17 AmerisourceBergen, are you -- and 18 Cardinal Health and McKesson control 19 about 90 percent of the market, you don't 20 think any of you guys together had a role 21 in selling the pills that created this 22 crisis?</p> <p>23 MS. McCLURE: Objection to 24 the form. I'm going to ask you if</p>	<p>1 MR. PIFKO: I understand 2 your objection. I've read the -- 3 I've read the direction.</p> <p>4 MS. McCLURE: No, I'm going 5 to make it for the record. Not 6 just for you, Mark.</p> <p>7 So Special Master ruled that 8 such a topic was inappropriate for 9 discussion in the 30(b)(6) 10 context.</p> <p>11 I also note that in the fact 12 witness context, this witness has 13 not been designated as a 30(b)(6) 14 witness. And so in a fact witness 15 context, it's even more 16 inappropriate to ask witnesses 17 whether they believe that there 18 was any role played or whether any 19 company or defendant contributed 20 to the crisis.</p> <p>21 So I -- we object to this 22 continuing line of questioning.</p> <p>23 BY MR. PIFKO:</p> <p>24 Q. Same question --</p>
<p>1 you want the witness to be excused 2 or if you want me to interpose my 3 objection on the record with the 4 witness present.</p> <p>5 MR. PIFKO: You can make a 6 valid objection. You don't need 7 the witness to leave.</p> <p>8 MS. McCLURE: Sure. My 9 valid objection is that pursuant 10 to Special Master Cohen's ruling 11 on the legal interpretation and 12 conclusion about whether -- 13 when -- when witnesses are asked 14 questions about whether, for 15 example here AmerisourceBergen, 16 caused and/or contributed to the 17 opioid epidemic, the Special 18 Master ruled that --</p> <p>19 MR. PIFKO: I think it's 20 different in the context of this 21 e-mail.</p> <p>22 MS. McCLURE: I'm not -- 23 wasn't finished talking. You can 24 talk after I talk.</p>	<p>1 A. Do you want to repeat the 2 question?</p> <p>3 Q. Yeah. I asked if you along 4 with McKesson and Cardinal Health 5 controlled 90 percent of the market, you 6 don't think that you've had any 7 contribution to the crisis in West 8 Virginia?</p> <p>9 A. I don't think --</p> <p>10 MS. McCLURE: Again, 11 objection to this continuing line 12 of questioning under the Special 13 Master's prior ruling.</p> <p>14 THE WITNESS: Do you want me 15 to answer?</p> <p>16 BY MR. PIFKO:</p> <p>17 Q. Yes.</p> <p>18 A. I don't think so.</p> <p>19 Q. You said you didn't do 20 anything wrong. Do you recall saying 21 that?</p> <p>22 A. I'm sorry?</p> <p>23 Q. You said we didn't do 24 anything wrong. Do you recall saying</p>
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1 that? 2 A. I just said that, yes. 3 Q. Yeah. What about the DEA 4 enforcement action. Do you think you had 5 bad conduct that led to that? 6 A. The enforcement action -- 7 MS. McCLURE: Objection to 8 the form of the question. 9 BY MR. PIFKO: 10 Q. The one that we've been 11 talking about, the 2007 one. 12 A. In 2007? I don't believe we 13 admitted to any -- any wrongdoing or any 14 violations. 15 Q. So you don't think you did 16 anything wrong. We're talking about 17 whether the company -- 18 A. I don't think we did 19 anything wrong, no. 20 Q. You think the DEA was out to 21 lunch when they went out to get you? 22 MS. McCLURE: Objection to 23 the form of the question. 24 THE WITNESS: I'm not -- no,	1 waiting to be printed just 2 arrived. 3 I found 11. 4 MS. McCLURE: Magic. 5 (Document marked for 6 identification as Exhibit 7 ABDC-Mays-11.) 8 BY MR. PIFKO: 9 Q. I'm handing you what's 10 marked as Exhibit 11 and Exhibit 13. 11 (Document marked for 12 identification as Exhibit 13 ABDC-Mays-13.) 14 THE WITNESS: Thank you. 15 BY MR. PIFKO: 16 Q. Take a minute to review 17 that. 18 MR. PIFKO: This is 11. And 19 this is 13. 20 MS. McCLURE: Thank you. 21 MR. PIFKO: For the record, 22 Exhibit 11 is Bates labeled 23 ABDCMDL00289421. And Exhibit 13 24 is Bates labeled ABDCMDL00289422
1 I'm not -- I don't say -- I am not 2 saying that. 3 BY MR. PIFKO: 4 Q. Well, what are you saying? 5 Why would they go after you if you didn't 6 do anything wrong? 7 A. Because in their opinion 8 they thought we did. 9 Q. And you think they are 10 wrong? 11 A. I think they are wrong, yes. 12 Q. Why do you think they are 13 wrong? 14 A. Because we comply with the 15 regulations. 16 Q. Did your company pay money 17 to the West Virginia Attorney General in 18 connection with the lawsuit they brought 19 against you? 20 A. I believe we did. 21 Q. Do you think you did 22 anything wrong there? 23 A. No. 24 MR. PIFKO: The document I'm	1 through 429. 2 BY MR. PIFKO: 3 Q. Let me know when you're done 4 reviewing those. 5 A. Okay. 6 Q. Let's go to the last page of 7 Exhibit 13. 8 A. Okay. 9 Q. 289429. 10 A. Okay. [REDACTED]

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[REDACTED]	[REDACTED]
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15 MR. PIFKO: We are going to
16 take a short break. I think we're
17 done.

18 THE VIDEOGRAPHER: Going off
19 the record. The time is 5:04.

20 (Short break.)

21 THE VIDEOGRAPHER: Go back
22 on the record. Beginning Media
23 File Number 6. The time is 5:14.

24 MR. PIFKO: All right.

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1	Unless you have any direct 2 examination, I have no further 3 questions. 4 MS. McCLURE: I have no 5 further questions -- I have no 6 questions. How about that. 7 MR. PIFKO: All right. 8 Thank you. 9 THE VIDEOGRAPHER: This 10 concludes today's deposition. We 11 are going off record. The time is 12 5:14. 13 (Excused.) 14 (Deposition concluded at 15 approximately 5:14 p.m.) 16 17 18 19 20 21 22 23 24	1 INSTRUCTIONS TO WITNESS 2 3 Please read your deposition 4 over carefully and make any necessary 5 corrections. You should state the reason 6 in the appropriate space on the errata 7 sheet for any corrections that are made. 8 After doing so, please sign 9 the errata sheet and date it. 10 You are signing same subject 11 to the changes you have noted on the 12 errata sheet, which will be attached to 13 your deposition. 14 It is imperative that you 15 return the original errata sheet to the 16 depoing attorney within thirty (30) days 17 of receipt of the deposition transcript 18 by you. If you fail to do so, the 19 deposition transcript may be deemed to be 20 accurate and may be used in court. 21 22 23 24
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1	2 CERTIFICATE 3 4 5 I HEREBY CERTIFY that the 6 witness was duly sworn by me and that the 7 deposition is a true record of the 8 testimony given by the witness. 9 10 It was requested before 11 completion of the deposition that the 12 witness, STEPHEN MAYS, have the 13 opportunity to read and sign the 14 deposition transcript. 15 16 17 18 MICHELLE L. GRAY, 19 A Registered Professional 20 Reporter, Certified Shorthand 21 Reporter, Certified Realtime 22 Reporter and Notary Public 23 Dated: October 29, 2018 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 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